

H 7652

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rently processing checks, NOW's, share drafts and in-NOW's on the same terms and this legislation is premised on the assumption that this will continue to be the case.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I appreciate the gentleman's comments and concur completely in the view that the general business practice rather than legal terminology should be the criteria for processing payment instruments through the Federal Reserve System.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

Mr. CAVANAUGH. Mr. Speaker, I was present in the Chamber during the last vote and inadvertently did not have my vote recorded.

I would like the record to reflect I was present and would have voted "aye" had my vote been recorded.

EXPORT ADMINISTRATION ACT
AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM). The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, July 23, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT ADMINISTRATION

SHORT TITLE

(Mr. ICHORD asked and was given permission to revise and extend his remarks.)

Mr. ICHORD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of asking the manager of the bill questions about the developments that have occurred in this legislation.

First, may I point out to the gentleman and the Members of the House that this bill is an extremely complicated measure dealing with extremely difficult and complicated subjects. If there is any Member of this body who does not believe the statement I have just made, I ask you to pick up a copy of H.R. 4034 and, particularly, if you have not been dealing with the subjects covered by this bill on a day

in and day out basis or if you have not made a special attempt to understand the provisions of this bill, I defy any Member of this body to read the sections and tell me just exactly what the bill does.

Mr. Chairman, this is an export control bill. It is not a trade bill, although it certainly affects trade.

It is export control for three purposes.

First, it deals with control of items in short supply. In other words, to protect the domestic economy.

Second, Mr. Chairman, it deals with export controls for the purpose of effecting foreign policy.

Third, Mr. Chairman, and the one about which I am greatly concerned, it deals with export controls for the purpose of protecting the national security of the United States.

Mr. Chairman, this bill has been reported from the Committee on Foreign Affairs. It covers these three subjects. I would point out it is the latter, the control over the national security, where the Committee on Armed Services also retains jurisdiction. It is the House Committee on Armed Services that has the expertise and has the staff that has the expertise in matters affecting the national security of this country. Not the House Committee on Foreign Affairs.

□ 1250

I will agree that the House Committee on Foreign Affairs are the experts on controls to effect our foreign policy.

I would point out that this measure could very well involve the most important national security votes that the Members are going to cast this year. Why do I say that? Because of what has happened in recent years to the national security of this country.

Let me remind the Members of the House that in the field of strategic warfare we have gone from a position of nuclear monopoly in the 1950's, to a position of overwhelming superiority in the 1960's, to a position of essential equivalence today, whatever that means.

In the field of conventional warfare, the Members are acquainted with the numbers. They are horrifying.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. In the field of conventional military capability, the figures are horrifying, I say to the Members of the House; 7 to 1 in the case of tanks, 4 to 1 in the case of artillery pieces, 4 to 1 in the case of aircraft, 50 to 1 in the case of chemical warfare capability.

The only lead that we have over the Soviet Union today, our potential adversary, is in the field of technology. That is what we are dealing with today, technology, dual technology which has a military application as well as a commercial application. This bill is the result of several measures that were introduced dealing with controls for the purpose of items in short supply, items affecting foreign policy, items affecting national security.

One of those bills, H.R. 3216, was re-

ferred jointly to the Committee on House Armed Services and the Committee on Foreign Affairs. H.R. 4034 comes before this body under very unusual circumstances. All bills were referred to the subcommittee of the gentleman from New York (Mr. BINGHAM). The gentleman reported out one measure to the full committee. The full committee started work on the bill and dropped that and reported out H.R. 4034.

Now, H.R. 3216 dealt only with controls for national security purposes. I would state to the gentleman from New York that I am very much concerned that this bill covers so much, export controls for the purpose of protecting the domestic economy, and that is a broad complicated subject within itself; export controls for the purpose of affecting foreign policy is another broad subject. Export controls for the purpose of protecting the national security is another complicated subject and which is in the expertise of the Committee on Armed Services.

The gentleman from New York (Mr. WOLFF) was the author, the principal author of H.R. 3216. The gentleman has been very instrumental in attaching amendments to this bill in the interest of national security.

I would like to ask the gentleman from New York (Mr. BINGHAM). I am quite concerned about the elimination of the reexport provisions on page 20 of the bill. This would permit a company within the United States, once it has exported technology to its foreign subsidiary to forget about any U.S. controls. If the foreign country had little or no controls, the technology could easily be transferred to our potential adversaries.

It is my understanding that the gentleman from New York (Mr. BINGHAM) has agreed with the gentleman from New York (Mr. WOLFF) to accept the gentleman's amendment eliminating subsection (3) on page 20; is that correct?

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I will have a colloquy with the gentleman from New York (Mr. WOLFF) when the gentleman offers that amendment. I do expect to express my opinion, but that amendment is one I have no objection to.

I think there should be some discussion of it at the time so that we have some legislative record; but I think it would be appropriate that that discussion take place when the amendment is offered.

Mr. ICHORD. Then I am very happy that the gentleman is accepting the amendment of the gentleman from New York.

Let me ask the gentleman from New York a question about indexing. I am very much concerned about that and I know the gentleman from New York (Mr. WOLFF) is concerned about it. Have the gentlemen worked out an agreement, will the gentleman from New York (Mr. WOLFF) offer such an amendment, and will the gentleman from New York (Mr.

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The Clerk read the title of the bill. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and pass the bill, H.R. 4986, as amended.

The question was taken.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 39, answered "present" 5, not voting 23, as follows:

[Roll No. 454]

YEAS—367

Addabbo	Davis, Mich.	Hall, Ohio
Akaka	Davis, S.C.	Hall, Tex.
Albosta	de la Garza	Hamilton
Alexander	Deckard	Hammer-
Ambro	Dellums	schmidt
Anderson,	Derrick	Hance
Calif.	Devine	Hanley
Andrews, N.C.	Dickinson	Hansen
Andrews,	Dicks	Harkin
N. Dak.	Diggs	Harris
Anthony	Dingell	Harsha
Archer	Dixon	Hawkins
Ashley	Dodd	Heckler
Aspin	Donnelly	Hefner
Atkinson	Dornan	Hefelt
Badham	Dougherty	Hightower
Bafalis	Downey	Hillis
Bailley	Drinan	Hinson
Baldus	Duncan, Oreg.	Holland
Barnard	Duncan, Tenn.	Holt
Barnes	Early	Holtzman
Bauman	Eckhardt	Hopkins
Bellenson	Edgar	Horton
Benjamin	Edwards, Ala.	Howard
Bennett	Edwards, Calif.	Huckaby
Bereuter	Edwards, Okla.	Hughes
Bethune	Emery	Hutto
Bevill	English	Ireland
Bingham	Erdahl	Jacobs
Blanchard	Erlenborn	Jeffords
Boggs	Ertel	Jenkins
Boland	Evans, Del.	Jenrette
Boiling	Evans, Ga.	Johnson, Calif.
Boner	Evans, Ind.	Jones, N.C.
Bonior	Fascell	Jones, Okla.
Bonker	Fazio	Jones, Tenn.
Bouquard	Fenwick	Kastenmeier
Bowen	Ferraro	Kazen
Brademas	Findley	Kemp
Brodhead	Fish	Kildee
Brooks	Fisher	Kindness
Broomfield	Fithian	Kogovsek
Brown, Calif.	Filippo	Kostmayer
Broyhill	Florio	Kramer
Buchanan	Foley	LaFalce
Burgener	Ford, Mich.	Lagomarsino
Burlison	Ford, Tenn.	Latta
Burton, John	Forsythe	Leach, La.
Burton, Phillip	Fountain	Lederer
Butler	Fowler	Lee
Byron	Frost	Lehman
Campbell	Fuqua	Leland
Carney	Garcia	Lent
Chappell	Gaydos	Levitas
Chisholm	Gephardt	Lewis
Clausen	Gialmo	Livingston
Clinger	Gibbons	Lloyd
Coelho	Gilman	Loeffler
Coleman	Gingrich	Long, Md.
Collins, Ill.	Ginn	Lott
Conable	Glickman	Lowry
Conte	Goldwater	Lujan
Conyers	Gonzalez	Luken
Corcoran	Goodling	Lundine
Corman	Gore	Lungren
Cotter	Gradison	McCloskey
Coughlin	Gramm	McDade
Courter	Grassley	McEwen
Crane, Daniel	Gray	McHugh
D'Amours	Grean	McKinney
Daniel, Dan	Grisham	Madigan
Daniel, R. W.	Guarini	Maguire
Danielson	Gudger	Markey
Dannemeyer	Guyer	Marks
Daschle	Hagedorn	Marriott

Martin	Rahall	Stewart
Mathis	Railsback	Stockman
Matsui	Rangel	Stokes
Mattox	Ratchford	Stratton
Mavroules	Regula	Studds
Mazzoli	Reuss	Stump
Mica	Rhodes	Swift
Mikulski	Richmond	Symms
Mikva	Rinaldo	Synar
Miller, Calif.	Ritter	Tauke
Miller, Ohio	Robinson	Thomas
Mineta	Roe	Thompson
Minish	Ross	Traxler
Mitchell, Md.	Rosenthal	Treen
Mitchell, N.Y.	Rostenkowski	Tribble
Moakley	Roth	Udall
Moffett	Rousselot	Ullman
Mollohan	Royer	Van Deerin
Moore	Rudd	Vander Jagt
Moorhead,	Runnels	Vanik
Calif.	Sabo	Vento
Moorhead, Pa.	Santini	Walgren
Mottl	Satterfield	Walker
Murphy, Ill.	Sawyer	Wampler
Murphy, N.Y.	Scheuer	Watkins
Murphy, Pa.	Schroeder	Waxman
Murtha	Schulze	Weaver
Myers, Pa.	Seiberling	Weiss
Neal	Sensenbrenner	White
Nedzi	Shannon	Whitehurst
Nelson	Sharp	Whitley
Nichols	Shelby	Williams, Mont.
Nolan	Shuster	Williams, Ohio
Nowak	Slack	Wilson, Bob
Oakar	Smith, Iowa	Wilson, C. H.
Oberstar	Smith, Nebr.	Wirth
Obey	Snowe	Wolf
Otinger	Solarz	Wolpe
Panetta	Solomon	Wright
Pashayan	Spellman	Wyatt
Patten	Spence	Wydler
Patterson	St Germain	Wylie
Pease	Stack	Yates
Petri	Staggers	Yatron
Peyser	Stangeland	Young, Fla.
Preyer	Stanton	Young, Mo.
Pritchard	Stark	Zablocki
Pursell	Steed	Zefereetti
Quayle	Stenholm	

NAYS—39

Abdnor	Jeffries	Perkins
Annunzio	Johnson, Colo.	Pickle
Ashbrook	Kelly	Price
Beard, Tenn.	Leath, Tex.	Roberts
Bedell	Long, La.	Russo
Brinkley	McClary	Sebellius
Brown, Ohio	McDonald	Shumway
Carr	McKay	Simon
Collins, Tex.	Marlenee	Snyder
Fary	Michel	Taylor
Hubbard	Montgomery	Volkmmer
Hyde	Myers, Ind.	Whittaker
Ichord	Natcher	Whitten

ANSWERED "PRESENT"—5

Cleveland	Quillen	Winn
O'Brien	Skelton	

NOT VOTING—23

Anderson, Ill.	Cheney	McCormack
Applegate	Clay	Paul
AuCoin	Crane, Philip	Pepper
Beard, R.I.	Derwinski	Rodino
Biaggi	Flood	Roybal
Breaux	Frenzel	Wilson, Tex.
Carter	Hollenbeck	Young, Alaska
Cavanaugh	Leach, Iowa	

□ 1230

The Clerk announced the following pairs:

Mr. McCormack with Mr. Anderson of Illinois.
 Mr. Pepper with Mr. Hollenbeck.
 Mr. Rodino with Mr. Leach of Iowa.
 Mr. Breaux with Mr. Paul.
 Mr. Biaggi with Mr. Young of Alaska.
 Mr. Applegate with Mr. Derwinski.
 Mr. AuCoin with Mr. Philip M. Crane.
 Mr. Beard of Rhode Island with Mr. Cheney.
 Mr. Cavanaugh with Mr. Carter.
 Mr. Clay with Mr. Frenzel.
 Mr. Charles Wilson of Texas with Mr. Roybal.

Messrs. MARTIN, BADHAM, and LEWIS changed their votes from "nay" to "yea."

Mr. O'BRIEN and Mr. SKELTON changed their votes from "yea" to "present."

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

□ 1240

TITLE AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Speaker, I offer an amendment to the title of H.R. 4986, the bill just passed.

The Clerk read as follows:

Title amendment offered by Mr. ST GERMAIN: Amend the title so as to read: "A bill to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes."

The SPEAKER pro tempore. The question is on the title amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

CLARIFICATION REGARDING NOW ACCOUNTS

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I take this time to propound a question of clarification on the bill just passed to the chairman of the subcommittee.

As a member of the committee who has actively followed the progress of NOW accounts since their introduction in 1972, I would like to commend the gentleman from Rhode Island for his leadership in bringing this broadly based legislation to passage.

I would like to ask, is it the understanding of the chairman that these new instruments designed to improve banking services will be accorded equal treatment by the Federal Reserve so as to permit them to compete fairly with the more traditional third-party payment instruments such as checks?

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I will be delighted to yield to the chairman.

Mr. ST GERMAIN. I thank the gentleman for raising this important point. I assure the gentleman we do not intend to create two categories of transaction accounts. The Federal Reserve is cur-

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BINGHAM) accept such an amendment eliminating indexing?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield again, it is my understanding that the gentleman from Missouri (Mr. ICHORD) will offer the amendment on indexing and I shall be constrained to oppose that amendment.

Mr. ICHORD. Mr. Chairman, let me state to the gentleman from New York (Mr. BINGHAM) that I held extensive hearings, as I stated, on H.R. 3216. We also discussed the provisions of this measure, H.R. 4034. I could not find a witness coming before the committee who was able to explain to me just what is meant by the language that is used in the indexing provision. All of the members of my staff, who are experts, technological experts, have been unable to explain to me what is meant by this language.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has again expired.

Mr. ICHORD. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. BINGHAM. Mr. Chairman, reserving the right to object, and I shall not object, but I must say, I find this unusual procedure. The normal procedure is to go ahead and read the bill and discuss the amendments as they come up.

The gentleman from Missouri is asking me a number of questions. I am not holding back anything, but it seems to me we will have to go over this again when the amendment is raised, so why try to do it now in advance?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri (Mr. ICHORD) to proceed for 3 additional minutes?

There was no objection.

Mr. ICHORD. Mr. Chairman, this bill, I would state to the gentleman from New York, deals with the national security of the United States, and as I stated before, I think we are going to cast some of the most important votes that we are going to cast this year on national security.

The gentleman from New York has worked out several agreements with the gentleman from New York (Mr. WOLFF). I want to make sure just what has been worked out so I can understand the provisions of this bill, because there is a lot of vagueness, there are a lot of ambiguities.

Let me point this out to the gentleman from New York. Here is the way the matter of indexing has been explained. I do not know what we mean by "indexing."

Your committee report states as follows: "In subsection (g), it provides that the Secretary may, where appropriate, establish an indexing system providing for annual increases in the performance levels of goods or technology subject to licensing requirements under this section; in order that such requirements

may be periodically removed as such goods or technology become obsolete."

This provision is particularly applicable to computers. How is it applicable to computers?

I direct the attention of the members of the committee to the language on page 16 and tell me what it means. I ask the gentleman from New York to tell me what it means.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, I still do not understand why we discuss this now, rather than at the time when the gentleman presents his amendment; but let me give the gentleman a quick answer.

As the gentleman knows, technology is not something static. It changes constantly with advances in technology, and as it changes, items which have been critical, which have been closely held, become common knowledge and no longer can be regarded as critical.

Mr. ICHORD. Why is it particularly applicable to computers, though?

Mr. BINGHAM. Because computers are particularly susceptible to this type of advance. We have heard of generations of computers. There are generations of computers, and what a few years ago was an advanced computer, today is a very common computer. You can buy them in any retail store.

Mr. ICHORD. Does the gentleman mean to sit down and tell me that the 76 Siber computer will be obsolete technology 2 or 3 years from now, or 3 years from now?

Mr. BINGHAM. No; there was never any question, at least not so far as we know, that that particular computer should be licensed.

Mr. ICHORD. Mr. Chairman, I yield back the balance of my time, but I hope the gentleman can explain this language when we are actually debating the indexing amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECTION 101. This title may be cited as the "Export Administration Act Amendments of 1979".

FINDINGS

SEC. 102. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended to read as follows:

"FINDINGS

"SEC. 2. The Congress makes the following findings:

"(1) Exports are important to the economic well-being of the United States.

"(2) A large United States trade deficit weakens the value of the United States dollar, intensifies inflationary pressures in the domestic economy, and heightens instability in the world economy.

"(3) Poor export performance is an important factor contributing to a United States trade deficit.

"(4) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

"(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

"(6) The uncertainty of policy toward

certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

"(7) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

"(8) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

"(9) The export of goods or technology without regard to whether such export makes a significant contribution to the military potential of individual countries may adversely affect the national security of the United States.

"(10) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States."

□ 1300

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 102 of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. In there objection to the request of the gentleman from New York?

Mr. ICHORD. Mr. Chairman, reserving the right to object, as I explained a while ago, controls for national security purposes comes under the joint jurisdiction of the Committee on Foreign Affairs and the Committee on Armed Services.

Now, this is an open rule. I have at least two amendments, perhaps three amendments. I would state to the gentleman from New York (Mr. BINGHAM), that I will offer on behalf of the Committee on Armed Services. They are not my amendments alone. They were approved unanimously by the Subcommittee on Research and Development.

I do not want to delay the consideration of this bill. I certainly do not want to inconvenience the gentleman from New York (Mr. WOLFF), who I know has several amendments to offer to this bill and who has recently been involved in an automobile accident, but I do want to make sure that I am able to be recognized to offer an amendment, particularly the one dealing with the transfer of critical military technology, which I consider a very important amendment.

Mr. Chairman, can the gentleman from New York (Mr. BINGHAM) assure me that I will be recognized without any limitations on time?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, so far as it is within the power of this Member to give the gentleman that assurance, I am glad to give him that assurance. The gentleman's amendments come under section 104, which is a very long section running from page 6 to page 40 in the bill.

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Of course, the members of the Committee on Foreign Affairs will have priority, and primarily that means the gentleman from New York (Mr. Wolff) and I believe possibly the gentleman from California (Mr. Lagomarsino). Other than that, I know of no reason why the gentleman should not be recognized for that purpose in about 20 minutes or a half hour from now.

Mr. ICHORD. Twenty minutes or a half hour from now. How many amendments do we have pending now? Does the gentleman anticipate a long period of time on those amendments?

Mr. BINGHAM. No, I do not, because on some of the amendments the gentleman from New York (Mr. Wolff) has to offer there will be no disagreement. There are amendments to sections 102 and 103, some of which are unfamiliar to me, and so I cannot give the gentleman a definite answer. But the amendments of the gentleman from Missouri (Mr. Ichord) do not arise until section 104.

Mr. ICHORD. Mr. Chairman, the gentleman from New York (Mr. Bingham) is the manager of the bill, and I am sure the chairman of the committee will acquiesce in the wishes of the manager. Therefore, I will not object.

With that understanding, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. Bingham)?

There was no objection.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 4, line 7, delete the quotation mark and period at the end thereof and insert the following new paragraph thereafter:

"(1) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger."

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, basically this is a fairly simple amendment. It just adds a new finding to the bill which basically provides some additional support for agricultural exports and again creates the burden of proof to see to it that these agricultural exports should proceed forthwith. I think they generally are proceeding in a positive fashion, but I just want to make sure this language does appear in the bill.

So Mr. Chairman, I do offer this amendment at this time.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I would like to commend the gentleman from

Kansas (Mr. GLICKMAN) on offering this amendment and providing us with this whole line of thinking.

I think so often we overlook the fact that were it not for the tremendous export capability of this country, our balance-of-payments problem would be probably even much worse than it is. We should keep reminding ourselves and our fellow citizens of the importance of agricultural exports, and I compliment the gentleman for offering this amendment.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman from Missouri (Mr. Skelton) for his remarks.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I have had occasion to examine the gentleman's amendment, and as far as I am concerned, we have no objection to it on this side.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I have also examined the gentleman's amendment, and I have no objection to it. I support it. It is certainly consistent with what we are trying to do in the bill, especially with regard to foreign policy considerations.

I accept the amendment for this side.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I want to commend the gentleman from Kansas (Mr. GLICKMAN) for this amendment, which I strongly support. The gentleman from Kansas and I have discussed the amendment. I give him my wholehearted support and compliment him for offering the amendment.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman from Washington (Mr. Foley) and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 102?

The Chair recognizes the gentleman from New York (Mr. Solomon).

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I have an amendment at the desk which amends various sections and various titles throughout the bill. It simply removes or strikes the word, "significant," throughout all those sections, and I ask unanimous consent that these amendments be considered en bloc at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BINGHAM. Mr. Chairman, reserving the right to object, I have not had a chance to examine the gentleman's amendment. I do not know its significance or the implications of making

this change throughout the bill, and under those circumstances I am constrained to object.

I think the gentleman from New York (Mr. Solomon) should offer the amendments section by section. I must take that position at this time.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York (Mr. Bingham) continue to reserve his right to object?

Mr. BINGHAM. I continue to reserve my right to object, Mr. Chairman.

Mr. SOLOMON. Mr. Chairman, will the gentleman from New York (Mr. Bingham) yield to me?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I will state to the gentleman from New York (Mr. Bingham), for whom I have high respect and who certainly is very familiar with the bill, that the word "significant" appears throughout the existing law in this legislation, and if the gentleman from New York will read the first amendment referring to page 3, line 20, the amendment simply repeats these words throughout the entire bill, so it is very easy to understand.

It simply says that what we are doing is changing the phrase which says, "which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States of America." We simply change that phrase throughout the entire bill by removing the word "significant."

Mr. Chairman, I would like the opportunity to explain the amendment in that context.

Mr. BINGHAM. I must maintain my objection, Mr. Chairman. I think that the matter is not as simple as my colleague, the gentleman from New York (Mr. Solomon) has suggested, so I object to the unanimous-consent request.

The CHAIRMAN. Does the gentleman assert his objection?

Mr. BINGHAM. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard. Does the gentleman from New York (Mr. Solomon) offer an amendment?

Mr. SOLOMON. Yes, I do, Mr. Chairman.

Mr. Chairman, I would restructure my amendment to state: On page 3, line 20, strike the word, "significant," and so forth.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: On page 3, line 20; page 4, line 4; page 4, line 14; strike the word "significant" wherever it appears.

Mr. SOLOMON. Mr. Chairman, one of the loopholes in our policy as it now stands which jeopardizes U.S. security is the word, "significant," which appears throughout this bill.

Under the legislation, the Secretary of Commerce is required to restrict sales "which would make a significant"—and I

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repeat, "significant"—"contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States." I think this is what the gentleman from Missouri (Mr. ICHORD) was dwelling on when he spoke previously.

□ 1310

I think this is what the gentleman from Missouri was dwelling on when he previously spoke. It is precisely the Department of Commerce that has nullified the intent of this legislation by continuing to objectively interpret militarily important matters as insignificant.

I would bring to the attention of the Members an internal Carter administration memorandum concerning a computer sale to the Soviet Zil truck plant, which states that a quarter of the 200,000 trucks that Zil produces annually goes to the military, including 100,000 missile launchers. Nonetheless, State and Commerce both support approval, on the grounds that we have already licensed exports for this plant, that the military trucks are basically like civilian trucks anyway, and that 100,000 missile launchers out of a 200,000-vehicle annual production is small. That is according to Juanita Kreps. Two hundred thousand annual production is small? Missile launchers? What kind of rationale is that? At a time when Communist influence is spreading across the globe, at such a time our leadership should be concerned with our own security instead of exempting military equipment in such an offhand manner.

We must tighten this legislation for our own protection and safety.

I see nothing wrong with removing the word "significant" throughout this bill, but, in particular, out of this one section. I think it would clarify the intent of the legislation, which I am sure the gentleman from New York, the gentleman from Missouri, and most Members of this House would support.

I urge support of the amendment.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

Mr. Chairman, as I stated before, this is an extremely complicated bill. I do not know whether the removal of the word "significant" would really accomplish anything or not, and I am afraid that it might prohibit the export of any item. What I am concerned about, I would say to the gentleman, is the export of critical military technology. "Significant" as used in the present legislation has always been used. There is some ambiguous language. I would state to the gentleman from New York, where you interchange "major" with "significant." But I see nothing wrong with "significant," as such. I do not quite understand what the gentleman is driving at.

Mr. SOLOMON. If the gentleman would just read that language, I think that one of the problems we have is the fact that the Secretary of Commerce,

Juanita Kreps, has been interpreting too many things as not being significant.

I cited the example of 100,000 missile launchers being produced in the Kama River plant.

Mr. ICHORD. I agree with the gentleman on that case. But I wonder whether or not you might with the elimination of the word "significant" prohibit the export of practically every item.

Mr. SOLOMON. If the gentleman will just read the language, it says " " " " which could make " " " "—we strike the word "significant" right there—" " " " which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States."

If it is not going to be detrimental to national security, if we are selling them oil, for instance, or we are selling them other items, which is not going to prove detrimental to the national security of this country, then I do not see where we have a problem; but we do have a problem by leaving the word "significant" in there, because we leave it up to Juanita Kreps to interpret.

Mr. ICHORD. If the gentleman will yield, I do not know whether you could actually administer the law if significant is removed.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I think the point of the gentleman from Missouri is a very valid one. I think what the gentleman seeks to achieve is something that we have sought to achieve in the entire bill of separating out what is significant and what is critical. If we dilute that in each particular case, we will dilute the significance of what we are trying to achieve in setting up a critical technology list.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment for the reasons suggested by the gentleman from Missouri and my colleague, the gentleman from New York.

I believe that to eliminate the word "significant" would create a great deal of confusion and probably exacerbate the problems of administration which this program has been bedeviled with. As we know, there are great delays in the consideration of licenses. If we eliminate the word "significant" and decide that the purpose is to consider any contribution to military potential whatever, no matter how miniscule, this is going to add enormously to the licensing burden. We are all agreed, those of us who have studied this legislation and have had hearings, that there is a lot of unnecessary paper work that goes on. We want to concentrate, as the gentleman from Missouri (Mr. ICHORD) has said, on militarily critical technologies.

Let me point out further that this word "significant" has been in the Export Administration Act since 1969 and was retained when this legislation was extended in 1974 and 1977. Incidentally, the reference that the gentleman from

Missouri has made to the enormous scope of this legislation surprises me a little bit, because the scope is no different from the scope of the legislation when it was extended in 1974 and again in 1977.

So for these reasons I hope that the gentleman's amendment will be omitted. It was not something that we considered in committee. We had long hearings on this, both in subcommittee and full committee. It is something that comes to my attention today for the first time, and I think for the reasons that have been suggested, the amendment should be voted down.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I think what the gentleman seeks to achieve is, again, what we had hoped to achieve in committee. One aspect of this is that if you clutter the process with all of the various elements that are involved in trying to make a determination, as the gentleman would have us make, then we will never get to the point of really safeguarding the critical technology that we want to protect. Right now one of the most important problems faced by industry is the fact that we are so far behind with the granting of licenses that we are not able to devote sufficient time to protect those critical areas that we need to protect.

Mr. BINGHAM. I thank the gentleman for his contribution.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I share the concern of the gentleman from New York who has offered this amendment, but, like the gentleman from Missouri and the gentleman from New York, I am afraid that this amendment goes in exactly the wrong direction.

It is vitally necessary that we adopt some legislation, because to fail to do so means there are no controls, which would be an infinitely worse situation than even the passage of this bill in its present form would be to the people who are concerned about some of its provisions.

There is no one, with the exception, perhaps, of the gentleman from Missouri and the gentleman from New York (Mr. WOLFF), who tried harder to tighten this bill up in the subcommittee and in the full committee than I did. I offered some 25 amendments. Some were adopted and others were not. Others were adopted in the full committee by other members of that committee. But it does seem to me that if we take out "significant," particularly in this subsection, that what we are saying is that there can be no export to Communist countries at all, because I think you can make a very good argument that when we export wheat, for example, to Russia we certainly free them up from spending the kind of re-

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sources in the growing of wheat that they would have to do otherwise, and that extra effort can go into munitions and technology, and so on. So unless we are prepared—and I certainly am not—to say we shall not export anything to any Communist country, I think we had better turn this amendment down, and we had better pay very close attention to the amendments that will be offered by the gentleman from New York (Mr. WOLFF) and the gentleman from Missouri (Mr. ICHORD). I will be supporting some of those amendments, as I did in committee. I think we ought to zero in on issues of importance and concern, those things that we can do something about and those things that we can control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 102? If not, the Clerk will read.

The Clerk read as follows:

POLICY

Sec. 103. (a) Section 3 of the Export Administration Act of 1969 (50 U.S.C. App. 2402) is amended by amending paragraph (2) to read as follows:

"(3) It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States; (B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities; and (C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand."

(b) Such section is further amended—

(1) in paragraph (5) by striking out "articles, materials, supplies, or information" and inserting in lieu thereof "goods, technology, or other information";

(2) in paragraph (6) by striking out "articles, materials, or supplies, including technical data or other information," and inserting in lieu thereof "goods, technology, or other information"; and

(3) by adding at the end thereof the following new paragraphs:

"(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries, which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

"(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are essential to achieve fundamental national security, foreign policy, or short supply objectives, (B) will clearly achieve such objectives, and (C) are administered consistent with basic standards of due process. It is also the policy of the United States that such controls shall not be retained unless their efficacy is annually established in detailed reports available to both the Congress and to the public, to the maximum extent consistent with the national security and foreign policy of the United States."

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 103 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: Page 4, line 20, immediately after "responsibilities" insert ", including to restrict exports to countries which violate the principles of the Monroe Doctrine".

□ 1320

(Mr. PEYSER asked and was given permission to revise and extend his remarks.)

Mr. PEYSER. Mr. Chairman, it is seldom that the House has an opportunity at the time of particular crisis to really reflect and to express an opinion to the President as to how we feel on a specific issue.

At this time, as we all know, the Secretary of State and the President are engaged in efforts to resolve the issue of the Russian troops that are in Cuba today.

What this amendment does, is state that the President, knowing the will of the Congress, would have the right of restricting any trade to the Russians unless a solution is reached on the Russian troops who are presently located in Cuba.

I believe that the Soviets should have to choose between millions of bushels of wheat or the removal of their troops from the Western Hemisphere.

I would also like to suggest that this is a way of saying to the President, that we do not think the Senate should be placed in a position that they are trading off a SALT II agreement in order to get troops out of Cuba. The SALT II agreement has either got to stand or fall on its own and not be an item of trade-offs.

If there are any trade-offs that should be made, let us make them in trade. Let us find out what really is important to the Russians, and let us accept this amendment by overwhelmingly indicating that we simply are giving the authority to the President, letting the President know that the Congress feels that they too are deeply concerned over the Russians being in Cuba today. We want them out.

We want to give him this authorization, which he may use in his negotiations with the Russians, who are located in Cuba today, and with the Russian Government.

Mr. Chairman, this is a simple amendment. It does not dictate anything, but it simply provides an opportunity for the Congress to express its point of view on this issue.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I would like to ask the gentleman a question. Is it his view that at this time, so long as the Soviets maintain these

troops in Cuba, that we should stop all exports to the Soviet Union?

Mr. PEYSER. Not at all, nor does this amendment do that. This amendment merely authorizes the President and states that he has the right, and it is the feeling of the House and letting him know how we voted on this, that we are concerned, if that is the way the House feels, with these Russian troops there; and he ought to have the right of using trade to terminate the arrangement.

Mr. BINGHAM. If the gentleman will yield further, I think this amendment goes much further than that.

This amendment occurs in a section which says:

It is the policy of the United States to use export controls to the extent necessary . . .

Then we go down to:

(b) to the extent necessary to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities; including to restrict exports to countries which violate the principles of the Monroe Doctrine.

From what the gentleman has said, it seems to me that he does mean to refer there to the Soviet Union in connection with its maintenance of troops in Cuba. Therefore this, as I read it, would be a statement of policy that all exports to the Soviet Union should be stopped until those troops are withdrawn.

Mr. PEYSER. I appreciate the gentleman's comments. I think, in reading the bill, and I listened to him read it, it says, "where necessary," where the President deems it necessary, and it is true. Even though the amendment does not say the Soviet Union, I am speaking to the situation in Cuba, without question, but it is only where necessary. It does not dictate and say that the country cannot continue trade with the Soviets. It simply says that we are in a position, and we are letting the Congress speak out on an issue that I think we can easily speak out on here and express the concern that the people—certainly my constituents—have expressed that we do something and we let them know we are concerned. That is the reason.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(At the request of Mr. BINGHAM and by unanimous consent, Mr. PEYSER was allowed to proceed for 3 additional minutes.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I am happy to yield to the gentleman.

Mr. BINGHAM. I think that matter of interpretation is very important. I take his word that is what he means. I take it all he is saying is that in a situation of this kind, the President should consider the possibility of foreign policy controls on exports as one method of pursuing an objective. Is that so?

Mr. PEYSER. I would agree with the gentleman.

Mr. BINGHAM. On the basis of that interpretation, I have no objection to the amendment.

Mr. PEYSER. I thank the gentleman.

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Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I think perhaps the gentleman's amendment could be a little more artfully drawn, although as I sit here I am not able to do that.

As I understand it, there is not a similar provision in the Senate bill, so we will have that opportunity in conference.

I think what the gentleman is saying and the way he is explaining his amendment is very clear that this would only be an added tool for the President in determining whether or not to apply foreign policy controls.

Mr. PEYSER. That is correct.

Mr. LAGOMARSINO. With that understanding, I support the amendment.

Mr. PEYSER. I thank the gentleman. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 6, line 4, delete the quotation mark and following period at the end thereof, and insert the following new paragraph thereafter:

"(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products."

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, this is an attempt to conform language I earlier offered and the House accepted in the findings section into the policy section, and basically I think it does put into statutory language what is already existing law, that the United States should try to minimize to the extent feasible restrictions on the export of agriculture commodities and products.

I did utilize the word "minimize" at the suggestion of the gentleman from California (Mr. LAGOMARSINO).

I would ask for the adoption of the amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I certainly believe this is the purpose of the bill, and if this adds to making that clear, I am in favor of the amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I support the gentleman's amendment. Hopefully, the committee will adopt it.

Mr. GLICKMAN. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 103?

If not, the Clerk will read.

The Clerk read as follows:

EXPORT LICENSES; TYPES OF CONTROLS

SEC. 104 (a) The Export Administration Act of 1969 is amended—

- (1) by redesignating section 4 as section 7;
- (2) by repealing sections 5 and 9;
- (3) by redesignating sections 6, 7, 8, 10, 11, 12, 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18, 19, and 20, respectively; and
- (4) by redesignating sections 4A and 4B as sections 8 and 9, respectively.

(b) The Export Administration Act of 1969 is amended by adding after section 3 the following new sections:

"EXPORT LICENSES; COMMODITY CONTROL LIST; LIMITATION ON CONTROLLING EXPORTS

"SEC. 4. (a) TYPES OF LICENSES.—The Secretary may, in accordance with the provisions of this Act, issue any of the following export licenses:

"(1) A validated license, which shall be a document issued pursuant to an application by an exporter authorizing a specific export or, under procedures established by the Secretary, a group of exports, to any destination.

"(2) A qualified general license, which shall be a document issued pursuant to an application by the exporter authorizing the export of any destination, without specific application by the exporter for each such export, of a category of goods or technology, under such conditions as may be imposed by the Secretary.

"(3) A general license, which shall be a standing authorization to export, without application by the exporter, a category of goods or technology, subject to such conditions as may be set forth in the license.

"(4) Such other licenses, consistent with this subsection and this Act, as the Secretary considers necessary for the effective and efficient implementation of this Act.

"(b) COMMODITY CONTROL LIST.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the 'commodity control list') consisting of any goods or technology subject to export controls under this Act.

"(c) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under any rules or regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

"NATIONAL SECURITY CONTROLS

"SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

"(B) Whenever the Secretary denies any

export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section.

"(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may consider appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of factors specified in the preceding sentence.

"(c) CONTROL LIST.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

"(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

"(3) The Secretary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that, as art of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled for export from the United States under this section.

"(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be removed insofar as possible from goods the export of which would not transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing know-how;

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance operation, or maintenance know-how, which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a major advance in a weapons system of any such country.

"(3) The list referred to in paragraph (2) shall—

"(A) be sufficiently specific to guide the

determinations of any official exercising export licensing responsibilities under this Act; and

"(B) provide for the removal of export controls under this section from goods the export of which would not transfer military critical technology to countries to which exports are controlled under this section, except for goods with intrinsic military utility.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list subject to the provisions of subsection (c) of this section.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

"(e) EXPORT LICENSES.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license, in lieu of a validated license, to the maximum extent practicable, consistent with the national security of the United States.

"(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

"(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

"(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

"(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

"(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

"(f) FOREIGN AVAILABILITY.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set

forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination under paragraph (1) with respect to such goods or technology is warranted.

"(3) Whenever the Secretary of State, in consultation with the Secretary, has reason to believe that the availability of any goods or technology from sources outside the United States can be prevented or eliminated by means of negotiations with other countries, the Secretary of State shall undertake such negotiations. The Secretary shall not make any determination under this subsection with respect to such goods or technology until the Secretary of State has had a reasonable amount of time to conclude such negotiations.

"(4) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in each report to the Congress made pursuant to section 14 of this Act.

"(g) INDEXING.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list.

"(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon written request by representatives

of a substantial segment of any industry which produces any goods or technology subject to export controls under subsection (a) or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

"(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

"(3) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

"(4) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a), and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f) (1) of this section, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwith-

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standing foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(1) **MULTILATERAL EXPORT CONTROLS.**—(1) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee of the Consultative Group (hereinafter in this subsection referred to as the 'Committee') with a view toward accomplishing the following objectives:

"(A) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement, and all changes thereto.

"(B) Agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

"(C) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

"(D) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

"(2) The President shall include, in each annual report required by section 14 of this Act, a detailed report on the progress of the negotiations required by paragraph (1), until such negotiations are concluded.

"(3) In any case in which goods or technology controlled for export by agreement of the Committee are exported from the United States to countries which participate in the Committee, no condition shall be imposed by the United States with respect to the further export of such goods or technology from such countries.

"(j) **COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.**—(1) Any United States person who, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation, and which agreement is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

"(k) **NEGOTIATIONS WITH OTHER COUNTRIES.**—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

"FOREIGN POLICY CONTROLS

"SEC. 6. (a) **AUTHORITY.**—(1) In order to effectuate the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further sig-

nificantly the foreign policy of the United States or to fulfill its international responsibilities. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

"(2) (A) Whenever the Secretary makes any revision with respect to any goods, technology, or other information, or with respect to the countries or destination affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision, and shall specify in the notice that the revision relates to control imposed under the authority contained in this subsection.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section.

"(3) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section that the Secretary requests to review, and to appeal to the President any decision of the Secretary with respect to such license application.

"(b) **CRITERIA.**—In determining whether to impose export controls under this section, the President, acting through the Secretary and the Secretary of State, shall consider—

"(1) the likely effectiveness of the proposed controls in achieving their purpose, including the availability from other countries of any goods or technology comparable to goods or technology proposed for export controls under this section;

"(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts; and

"(4) the ability of the United States Government to enforce the proposed controls effectively.

"(c) **CONSULTATION WITH INDUSTRY.**—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to criteria set forth in paragraphs (1) and (3) of subsection (b) and such other matters as the Secretary considers appropriate.

"(d) **ALTERNATIVE MEANS.**—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

"(e) **NOTIFICATION TO CONGRESS.**—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Whenever the President imposes any export control with respect to any country under this section, he shall immediately notify the Congress of the imposition of such export control, and shall submit with such notification a report specifying—

"(1) the reasons for the control, the pur-

poses the control is designed to achieve, and the conditions under which the control will be removed;

"(2) those considerations of the criteria set forth in subsection (b) which led him to determine that on balance such export control would further the foreign policy interests of the United States or fulfill its international responsibilities, including those criteria which were determined to be inapplicable;

"(3) the nature and results of consultations with industry undertaken pursuant to subsection (c); and

"(4) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing the control without attempting any such alternative means.

To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. If the Congress, within sixty days after the receipt of such notification, adopts a concurrent resolution disapproving such export control, then such export control shall cease to be effective upon the adoption of the resolution. In the computation of such sixty-day period, there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or because of an adjournment of the Congress sine die. The procedures set forth in section 130 of the Atomic Energy Act of 1954 shall apply to any concurrent resolution referred to in this subsection, except that any such resolution shall be reported by the appropriate committees of both Houses of Congress not later than forty-five days after the receipt of the notification submitted pursuant to this subsection.

"(f) **EXCLUSION FOR FOOD AND MEDICINE.**—This section does not authorize export controls on food, medicine, or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of food, medicine, or medical supplies, under the International Emergency Economic Powers Act.

"(g) **TRADE EMBARGOS.**—This section does not authorize the imposition by the United States of a total trade embargo on any country. This subsection shall not be construed to prohibit the President from imposing a trade embargo under the International Emergency Economic Powers Act.

"(h) **FOREIGN AVAILABILITY.**—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled for export under this section.

"(i) **INTERNATIONAL OBLIGATIONS.**—The limitations contained in subsections (b), (c), (d), (f), (g), and (h) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill commitments of the United States pursuant to treaties to which the United States is a party, or to comply with decisions or other actions of international organizations of which the United States is a member.

"(j) **EXISTING CONTROLS.**—The provisions of subsections (f) and (g) shall not apply

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to any export control on food or medicine or to any trade embargo in effect on the effective date of the Export Administration Act Amendments of 1979.

"(k) CONTROL LIST.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President for resolution. The Secretary shall issue regulations providing for periodic revision of such list for the purpose of eliminating export controls which are no longer necessary to fulfill the purpose set forth in subsection (a) of this section or are no longer advisable under the criteria set forth in subsection (b) of this section.

(c) The Export Administration Act of 1969 is amended by inserting after section 9, as redesignated by subsection (a) of this section, the following new section:

"PROCEDURES FOR PROCESSING VALIDATED AND QUALIFIED GENERAL LICENSE APPLICATIONS

"Sec. 10. (a) GENERAL RESPONSIBILITY OF THE SECRETARY; DESIGNATED OFFICIAL.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section for objections by other agencies. The Secretary may not delegate the authority to deny any such application to any official holding a rank lower than Deputy Assistant Secretary.

"(2) For purposes of this section, the term 'designated official' means an official designated by the Secretary to carry out functions under this Act with respect to the administration of export licenses.

"(b) APPLICATIONS TO BE REVIEWED BY OTHER AGENCIES.—(1) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

"(2) The head of any Government agency concerned with export controls may, within ninety days after the effective date of this section, and periodically thereafter, in consultation with the Secretary, determine the specific types and categories of license applications to be reviewed by such agency before the Secretary approves or disapproves any such application. The Secretary shall, in accordance with the provisions of this section, submit to the agency involved any license application of any such type or category.

"(c) INITIAL SCREENING.—Within ten days after the date on which any export license application is received, the designated official shall—

"(1) send to the applicant an acknowledgment of the receipt of the application and the date of the receipt;

"(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

"(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section; and

"(4) determine whether it is necessary to submit the application to any other agency

and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred.

"(d) ACTION BY THE DESIGNATED OFFICIAL.—Within thirty days after the date on which an export license application is received, the designated official shall—

"(1) approve or disapprove the application and formally issue or deny the license, as the case may be; or

"(2) (A) submit the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to any other agencies pursuant to subsection (b) (2); and

"(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation submitted to such other agency with respect to such application.

"(e) ACTION BY OTHER AGENCIES.—(1) Any agency to which an application is submitted pursuant to subsection (d) (2) (A) shall submit to the designated official, within thirty days after the end of the thirty-day period referred to in subsection (d), any recommendations with respect to such application. Except as provided in paragraph (2), any such agency which does not so submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the designated official to have no objection to the approval of such application.

"(2) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review of the application by such agency, the agency shall have an additional thirty-day period to submit its recommendations to the designated official. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the designated official to have no objection to the approval of the application.

"(f) DETERMINATION BY THE DESIGNATED OFFICIAL.—(1) The designated official shall take into account any recommendation of an agency submitted with respect to an application to the designated official pursuant to subsection (e), and, within twenty days after the end of the appropriate period specified in subsection (e) for submission of such agency recommendations, shall—

"(A) approve or disapprove the application and inform such agency of such approval or disapproval; or

"(B) if unable to reach a decision with respect to the application, refer the application to the Secretary and notify such agency and the applicant of such referral.

"(2) The designated official shall formally issue or deny the license, as the case may be, not more than ten days after such official makes a determination under paragraph (1) (A), unless any agency which submitted a recommendation to the designated official pursuant to subsection (e) with respect to the license application, notifies such official, within such ten-day period, that it objects to the determination of the designated official.

"(3) The designated official shall fully inform the applicant, to the maximum extent consistent with the national security and foreign policy of the United States—

"(A) within five days after a denial of the application, of the statutory basis for the denial, the policies in section 3 of this Act that formed the basis of the denial, the specific circumstances that led to the denial, and the applicant's right to appeal the denial to the Secretary under subsection (k) of this section; or

"(B) in the case of a referral to the Secretary under paragraph (1) (B) or an objection by an agency under paragraph (2), of the specific questions raised and any negative considerations or recommendations made by

an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

"(g) ACTION BY THE SECRETARY.—(1) (A) In the case of an objection of an agency of which the designated official is notified under subsection (f) (2), the designated official shall refer the application to the Secretary. The Secretary shall consult with the head of such agency, and, within twenty days after such notification, shall approve or disapprove the license application and immediately inform such agency head of such approval or disapproval.

"(B) In the case of a referral to the Secretary under subsection (f) (1) (B), the Secretary shall, within twenty days after notification of the referral is transmitted pursuant to such subsection, approve or disapprove the application and immediately inform any agency which submitted recommendations with respect to the application, of such approval or disapproval.

"(2) The Secretary shall formally issue or deny the license, as the case may be, within ten days after approving or disapproving an application under paragraph (1), unless the head of the agency referred to in paragraph (1) (A), or the head of an agency described in paragraph (1) (B), as the case may be, notifies the Secretary of his or her objection to the approval or disapproval.

"(3) The Secretary shall immediately and fully inform the applicant, in accordance with subsection (f) (3), of any action taken under paragraph (1) or (2) of this subsection.

"(4) The Secretary may not delegate the authority to carry out the actions required by this subsection to any official holding a rank lower than Deputy Assistant Secretary.

"(h) ACTION BY THE PRESIDENT.—In the case of notification by an agency head, under subsection (g) (2), of an objection to the Secretary's decision with respect to an application, the Secretary shall immediately refer the application to the President. Within thirty days after such notification, the President shall approve or disapprove the application and the Secretary shall immediately issue or deny the license, in accordance with the President's decision. In any case in which the President does not approve or disapprove the application within such thirty-day period, the decision of the Secretary shall be final and the Secretary shall immediately issue or deny the license in accordance with the Secretary's decision.

"(i) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the appropriate export control office or agency to which such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to the request before the

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expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this paragraph and, not later than thirty days after notification of the request, shall—

"(A) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

"(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

"(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

"(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

"(j) **MULTILATERAL REVIEW.**—(1) In any case in which an application, which has been finally approved under subsection (d), (f), (g), (h), or (i) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the United States Government, subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within sixty days after such date, the Secretary's approval of the application shall be final and the license shall be issued. The Secretary shall institute such procedures for preparation of necessary documentation before final approval of the application by the United States Government as the Secretary considers necessary to implement the provisions of this paragraph.

"(2) In any case in which the approval of the United States Government is sought by a foreign government for the export of goods or technology pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the Secretary of State, after consulting with other appropriate United States Government agencies, shall, within sixty days after the date on which the request for such approval is made, make a determination with respect to the request for approval. Any such other agency which does not submit a recommendation to the Secretary of State before the end of such sixty-day period shall be deemed by the Secretary of State to have no objection to the request for United States Government approval. The Secretary of State may not delegate the authority to disapprove a request for United States Government approval under this paragraph to any official of the Department of State holding a rank lower than Deputy Assistant Secretary.

"(k) **EXTENSIONS.**—If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the appli-

cation or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

"(1) **APPEAL AND COURT ACTION.**—(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

"(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (k) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

"(3) If, within thirty days after petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or, if the application has been brought into conformity with such requirements, the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief as appropriate.

"(m) **RECORDS.**—The Secretary and any agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such agency."

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 104 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 15, insert the following after line 13, and redesignate subsequent paragraphs accordingly:

"(3) If, in any case in which the President makes a determination under paragraph (1) or (2) of this subsection with respect to national security, the good or technology concerned is critical to United States national security and, if available to an adversary country, would permit a significant contribution to the military potential of that country, the President shall direct the Secretary of State to enter into negotiations with the appropriate government or governments in order to eliminate foreign availability of such good or technology.

Page 15, line 20, strike out "under" and insert in lieu thereof "of foreign availability under paragraph (1) or (2) of".

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Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, I believe that this amendment offers a constructive addition to the foreign availability section of this bill, which was so carefully drafted by my colleague from New York (Mr. BINGHAM).

As written, the foreign availability section provides that the Secretary of State undertake negotiations to eliminate foreign availability of items to which the United States applies export controls, if he has reason to believe that such negotiations can be successful.

The subsection also states that validated export licenses should not be applied if foreign availability exists, unless the President determines that export controls should be maintained for national security purposes, despite foreign availability.

My amendment seeks to add the next logical step to this process. That is, if the President decides that export controls must be maintained despite the fact that the item is sold in another country, and the President feels that the item concerned is critical to U.S. national security, then the President should direct the Secretary of State to negotiate to eliminate that foreign availability. If the item concerned is important to our national security, the President will be mandated to try to keep controls on it, and secure the cooperation of another nation or nations producing the item in question. In this way, initiation of negotiations in this step of the process will depend upon the importance of the item, and not the judgment of potential success before negotiations begin.

If such negotiations fail to secure cooperation from the nation also producing the item, then of course the President can take any steps he feels are necessary to try to encourage cooperation, based upon the importance of the item to our security and military systems.

I believe that this amendment fits in nicely with the provisions already established in this subsection. It also relates very well to the "military critical technologies" section, which mandates the Secretary of Defense to complete the list of technologies and goods that are critical to our national security. Our export control policy will emphasize controls on commodities that are truly important to our national defense and security, and reflect the degree of importance of those items.

Mr. Chairman, I believe that this amendment is simply a logical extension of the provisions as drafted. I urge adoption of my amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield to the gentleman.

Mr. BINGHAM. I thank the gentleman for yielding.

My colleague from New York has already made great contributions to this bill and I think he, in proposing this amendment, is making a further contribution.

We have discussed the language and he has graciously accepted some sug-

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gestions we made in terms of clarifying the language. I am happy to say that I am supporting the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

With the language in the bill the administration has to believe negotiations can eliminate foreign availability before it even has to undertake such negotiations, so the administration could, say that foreign availability cannot be eliminated and no effort would be necessary to try to eliminate it.

With the gentleman's amendment, negotiations must be attempted whether there is reason to believe foreign availability can be eliminated or not, and at least in this way an effort will be made to try to find out and to try to eliminate it no matter what.

I called attention to this problem in the subcommittee; the full committee went part of the way. I support the gentleman's amendment because I think it removes a very serious flaw in the legislation.

Mr. WOLFF. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield.

Mr. ICHORD. I want to commend the gentleman in the well for offering this amendment. I think it is a very important amendment. As the gentleman stated, if we are able to mandate the establishment of a critical military technology list it will really help in the administration of this act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 15, insert the following after line 13 and redesignate subsequent paragraphs accordingly:

"(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this amendment provides that, in making a finding of foreign availability under this section, that reliable evidence be used. The Commerce Department may not make such a finding, and thus decontrol the article, simply because the company making the application for an export license says that foreign availability exists.

This amendment was passed in the other body on Saturday, July 21 by voice vote. It was offered by Senator MOYNIHAN for Senator JACKSON. The amendment, as I propose it today, is in the form as it was amended by Senator STEVENSON. Administration representatives monitoring the debate had no objection to this amendment.

This subsection contains important and valuable new procedures for decontrolling commodities because those items are available for export in foreign countries. I think that these procedures will be very helpful to business, in that businesses will be free to compete in international markets when an item is truly available, unless there is some extraordinary national security control placed upon the item. In light of this new emphasis placed on foreign availability, it is essential that reliable evidence be received to determine whether a product of comparable quality and produced in sufficient quantity exists, and that decontrol of the item should occur. If reliable evidence is not presented, such decontrol because of foreign availability could lead to a significant loophole in our export control process.

In the past the procedures on foreign availability have been inadequate, frustrating to business, and did not serve our export control policy well. A GAO report of this year, entitled "Export Controls: Need to Clarify Policy and Simplify Administration," was extremely critical of U.S. foreign availability considerations in the export licensing process. The report strongly criticized the lack of a standard of comparing goods available in foreign countries with proposed exports here. The report also found serious fault with the fact that no one really seemed to be in charge of developing this standard.

The legislation before us will go far in solving the enormous problems with foreign availability review that the GAO found. I believe that this amendment will insure that these constructive improvements will not permit any unwanted loopholes in the law.

I believe that this legislation, on the whole, is sending a strong signal to the business community that the U.S. Government wants to improve its performance on foreign availability, consistent with protecting our national security. As a former businessman myself, I know that business would not want to sell an item that is really damaging to our national security, if it got into the wrong hands. Therefore, I view this amendment as a logical addition to the improved foreign availability procedures, and an addition that will add to the intent of this section.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I am prepared to go along with the amendment. But I would like to say that I do not quite agree with the gentleman's characterization of the procedures we have been following. As a matter of fact, I think the amendment codifies the procedures that have been followed in the administration of the Export Administration Act.

We have had a number of cases brought before our committee where the authorities were too slow to find foreign availability. In some cases they eventually agreed with the company that there was foreign availability, but by that time it was so late that the exporters had lost the business.

We had that in a case that I brought to the attention of the House, the Cyril Bath case, where the French were selling a particular metal forming machine. Cyril Bath was able to enter into a contract to sell one such machine to the Soviet Union. They were held up for so long because of discussions and debates as to whether the French, in fact, were selling those machines. The French denied it. The company submitted evidence, and eventually the administration went along with that.

We have never, in the course of our discussions and hearings in the committee, been told of a case where foreign availability was found by the administration and should not have been found. In other words, the fault in the administration of the act, as far as we have been able to observe it, has been in the other direction, that they were too reluctant to find foreign availability. This meant the loss of business to American companies.

But since I believe this amendment requires sensible procedures, since these are the procedures, as I understand it, essentially now being followed, I have no objection to the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield to the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, I think the gentleman's amendment, like his previous one, tightens up the definition of foreign availability, because we must realize that if a technology is available from a foreign source, then our controls can, in effect, be thrown out the window. So it is a very, very important issue and I think that certainly reliable evidence should be produced to justify such a finding. I support the amendment.

□ 1340

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

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Amendment offered by Mr. WOLFF: Page 16, insert the following after line 7:

"(5) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this amendment would insure that adequate intelligence information is given to the Office of Export Administration in the Commerce Department concerning foreign availability of goods subject to export controls.

This amendment is important and necessary for two reasons. First it is clear that foreign availability was not given adequate attention in the past. A GAO report of March 1, 1979, specifically criticized the consideration of foreign availability in granting export licenses, particularly because no one was in charge of "developing and applying a standard for comparability." In other words, there is no criterion for judging whether an item produced in another country is of comparable quality or produced in sufficient quantity to warrant a finding of foreign availability, and thus decontrol the item. Insuring that the Office of Export Administration and the other departments having input into the licensing process, receive adequate intelligence information will help OEA determine correctly whether a good is truly comparable and a finding of foreign availability should be made.

Also, this legislation strengthens the provisions which decontrol items based on foreign availability. I think this will be a real step forward for the business community, which has been frustrated by the lack of a good foreign availability policy. However, as foreign availability will be given more consideration, we must insure that the OEA and other agencies are given all the necessary information to make the proper decision.

This amendment was offered by Senators Jackson and Bayh in the other body, and amended by Senator STEVENSON. I am offering this amendment in the same form in which it passed, by voice vote, in the other body. This amendment represents a constructive addition to this subsection and I urge its adoption.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to my colleague from New York.

Mr. BINGHAM. Mr. Chairman, I am happy to concur not only, in this case,

with the amendment, but with what the gentleman said about it.

Mr. WOLFF. I thank the gentleman. Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. On behalf of the minority I accept the amendment. I think it merely clarifies what "foreign availability" means by making sure that, in fact, it is foreign availability.

Mr. WOLFF. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would like the attention of the gentleman from New York (Mr. BINGHAM). I believe the amendment offered by the gentleman from New York (Mr. WOLFF) clears up one of the questions that I had about section 4, and I think we ought to be clear that we establish a record because we could be setting up another intelligence-gathering operation within the Department of Commerce if we are not very careful. I read the language now in the bill which the gentleman's amendment does bear upon, beginning at the bottom of page 15:

"(4) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section.

Now, anyone who knows anything about critical military technology knows that this is a day-to-day intelligence-gathering operation. We have got to find out what is the level of technology of the potential adversary. We have got to know about our own level of technology. We have got to know about the level of technology of our allies, and this language standing alone, anyway, could justify the establishment of a separate intelligence unit in the Department of Commerce. I do not think this body wants to do that.

I would ask the gentleman from New York, is the legislative history clear that we are not establishing an intelligence unit within the Department of Commerce?

Mr. BINGHAM. If the gentleman will yield, I think that is correct, and the amendment of the gentleman from New York (Mr. WOLFF) I think makes that doubly clear, because it adds the fact that the intelligence agencies and others are to share information in this important field.

Mr. WOLFF. That basically is the purpose of this amendment, to make the intelligence community responsible.

Mr. ICHORD. In other words, the intelligence community will give this information to the Department of Commerce, and the Department of Commerce is not authorized to set up a new, separate intelligence unit itself?

Mr. WOLFF. As far as I am concerned, that is the purpose of this legislation.

Mr. ICHORD. I commend the gentleman for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 15, line 12, insert "of foreign availability" after "determination".

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this is simply a technical amendment which corrects a problem I discovered in drafting my other amendments to the foreign availability section of the bill. I believe that this difficulty came about in the process of the various committee and subcommittee markups.

In paragraph f(1) the bill says that the Secretary of Commerce may not require a validated license if an item is available in another country, "unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States." Then in paragraph (2) of this subsection referring to foreign availability determinations, the bill states " * * * the Secretary shall determine whether a determination under paragraph (1) is warranted."

This determination by the Secretary in paragraph (2) could be construed to mean that the Secretary shall determine whether a determination by the President in paragraph (1) is warranted.

Obviously, this is an unintentional result of the amending process, and clearly would not be used by any Secretary. However, in the interests of correcting this anomaly, and having the law read properly, I have offered this amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I will be happy to yield.

Mr. BINGHAM. Again, the gentleman from New York has made a definite improvement in clarifying the intent of the language. I had difficulty reading that sentence myself as I reread it over the weekend, and I think this amendment clarifies the intent.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, on behalf of the minority I accept the amendment.

Mr. WOLFF. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

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Amendment offered by Mr. WOLFF: Page 20, strike out line 21 and all that follows through page 21, line 2.

(Mr. WOLFF asked and was given permission to revise and extend his remarks.)

Mr. WOLFF. Mr. Chairman, this amendment deletes the section in the bill which prohibits the United States from attaching any condition onto the reexport of goods that the United States has exported to any one of our COCOM allies.

I sympathize with the intent of my colleague from New York when he included this provision in his legislation. He points out that our COCOM allies, by participating in the Coordinating Committee, already have controls on the items to which we attach reexport conditions. Such conditions have irritated our allies in the past. In addition, our reexport controls have not always been effective.

However, while I agree with the gentleman that reexport controls are less than desirable, I do not believe that we should prohibit ourselves from utilizing them if we feel it is necessary. I feel that eliminating the possibility of using reexport controls could create an enormous loophole through which third country transfers could legally be made.

In addition, our COCOM allies do not always agree with our assessment of the need for control on some items. COCOM does not protect technical data as much as this Nation would prefer. Also, our COCOM allies do not always share our foreign policy objectives either. Where we might be very concerned about trade with certain Eastern bloc countries, our COCOM allies might view such trade with more enthusiasm.

I am personally very concerned over other foreign policy issues where this country might strenuously disagree with one of our COCOM allies on the reexport of a highly sensitive item to a country known to be aiding terrorists, or actively seeking to scuttle our foreign policy objectives in the Middle East, such as Libya for instance.

Finally, the Defense Department, in speaking for the entire administration had voiced concern over this section in testimony by Assistant Secretary, Dr. Ellen Frost, before the House Foreign Affairs Committee. Dr. Frost called reexport controls a "necessary evil," and maintained that, unfortunately, their use should not be prohibited at this time. The administration agrees that these controls should be used sparingly, and only when necessary of effective.

I feel very strongly about this issue. While I think that reexport controls should not be used excessively, I believe it is necessary to leave our options open at the present time to apply them if they are needed. I urge the adoption of my amendment.

□ 1350

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I would be happy to yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

This is a case where the same amendment was offered in the Committee on Foreign Affairs and I opposed it, and others opposed it, and it was defeated in the committee. Since then we have had occasion at the instance of my friend, the gentleman from New York (Mr. WOLFF), and also because of the interest of the gentleman from Missouri (Mr. ICHORD), to reexamine the whole proposition. There is something to be said on both sides.

One thing that should be pointed out, and that the committee should realize, is that no other country requires this type of second-degree controls, and so a part of the difficulty has been that we tend to irritate our COCOM partners by this dual procedure. I might add that the GAO in its study of export administration recommended that dual licensing be abandoned, and concluded that it would entail no diminution of control. On the other hand, on reexamination of the matter I have decided that on balance it probably is best to retain the dual licensing authority. The administration has taken that position all along, as the gentleman from New York (Mr. WOLFF) has just stated. It is true that there are certain items that we would not have the right to veto in COCOM if they were to be exported, and so on balance, and in consideration of all the major efforts that the gentleman has made in his contributions to this legislation, I recommend that the committee go along with the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I will be happy to yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

Again I want to thank the gentleman from New York (Mr. WOLFF) for what I consider to be the great service that he has rendered this body and rendered his country as a leader in perfecting this measure and as an author of H.R. 3216, taking a real leadership position in protecting the critical military technology of this country. I was quite concerned about the provision which the gentleman strikes with his amendment.

The CHAIRMAN (Mr. DANIELSON). The time of the gentleman from New York (Mr. WOLFF) has expired.

(At the request of Mr. ICHORD, and by unanimous consent, Mr. WOLFF was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. I thought it was a loophole through which we could have driven a T-72 tank. For example, an international computer company here in the United States—and computer technology is one of the places where we have a tremendous lead over potential adversaries—could have transferred that computer technology to one of its subsidiaries in a NATO country that has rather weak controls, and then all controls whatsoever would have been lost over the computer technology which is very important to the military capability of the United States.

The Department of Commerce, the

gentleman from New York (Mr. BINGHAM) stated, is in favor of this amendment, too, and I commend the gentleman from New York (Mr. WOLFF) for not only the leadership he has exerted but for his persuasive ability in persuading the administration and the gentleman from New York to accept this amendment.

Mr. WOLFF. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I will be happy to yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to commend the gentleman in the well not only for offering the amendment but also for being so persuasive. I offered exactly the same amendment in committee and I did not fare as well as I think the gentleman is going to do here this afternoon.

Mr. WOLFF. It must be because I have a neck brace on.

Mr. LAGOMARSINO. As the gentleman said; several others have also mentioned this: The Department of Defense is strongly in support of this amendment. I believe I am not overstating the case when I say they consider this to be one of the most important amendments that will be considered and one they think will be most vital.

Eliminating reexport controls by the United States on technology transferred to COCOM countries provides a small but significant loophole for retransfer of technology to destinations that might prove detrimental to the national security of the United States. While there is general agreement on what should be controlled for export purposes, certain areas like technical data are exported by COCOM members without submitting those applications to COCOM.

The argument is made that we should not require dual reexport licensing along with COCOM, but we have no choice when there are areas where COCOM members do not require licensing.

I think until we have complete agreement on the types of controls to be reviewed by COCOM, we cannot rely on COCOM procedures to protect vital technology and technical data.

As I say, I commend the gentleman for his amendment and on behalf of the minority I accept it.

Mr. WOLFF. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

I just want to enthusiastically get in line here to commend my chairman of the Narcotics Committee, the gentleman in the well (Mr. WOLFF), and associate myself totally with the remarks of the distinguished gentleman from Missouri (Mr. ICHORD) and my colleague, the gentleman from California (Mr. LAGOMARSINO). As the amendment process goes along today, I want to emphasize what both of these colleagues have said, and what the gentleman in the well has said, so eloquently, that al-

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though this type of bill does not garner as much press attention as we would hope, we know we are dealing here with one of the most significant bills we can approach in the 96th Congress.

Mr. WOLFF. I thank the gentleman for his contribution.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

I want to commend the gentleman for his proposal. I certainly urge my colleagues to support the proposal. I think it is something that is extremely important for our own national security, and I urge our colleagues to vote in favor of the amendment.

○ Mr. WOLFF. Mr. Chairman, I intended to offer two additional amendments that constitute a bill which I introduced on July 17, H.R. 4835. This proposal would place wheat and wheat flour under validated export licensing control, and charge export licensing fees on all such exports, except to developing countries. The fees would raise the price of wheat on international markets. The fees collected would be rebated, one-third to the farmers, one-third applied to reductions on Federal taxes on gasoline and heating oil; and the balance to help fund a program to develop alternate sources of energy.

The second amendment expresses the sense of the Congress that export controls should be imposed on nations engaging in inequitable trade practices on prices or supply of goods vital to our economy, such as petroleum. Thus the amendment urges the Commerce Department to apply controls on goods or technologies, other than food products, if such a policy appears to be an effective way to use some economic leverage.

The intent of these amendments, and my bill, is to try to use our economic leverage, where we have leverage, to secure the cooperation of nations which seem to be engaging in an economic warfare against us.

I do not intend for these amendments to commence counterproductive retaliatory moves. I do want to see the United States use any leverage that we have to fight the kind of economic blackmail to which OPEC countries have subjected this country.

By this proposal I am not suggesting that we can sidestep our need to conserve our energy resources, or develop new energy sources. This is of vital importance, and should be our highest national priority.

What I am getting at here is an effort to try to utilize our own economic leverage to meet this challenge. We are no longer the economic giant who can impose its will on other countries through economic sanctions. We do not control the world's economy to the extent that we once did. But we should try to use what leverage we do have to our own advantage.

This Nation is the world's grain reserve, the breadbasket of the world. In 1978, U.S. wheat exports were valued at \$4.3 billion and proved 43 percent of the

wheat traded internationally. OPEC nations import nearly 15 percent of U.S. wheat exports, and this provides OPEC countries with almost 50 percent of the wheat consumed in those countries. The U.S. imports 19 percent of OPEC's oil exports, and OPEC provides 38 percent of the oil used in this country.

In a recent Washington Post article, entitled "Using U.S. Wheat Against OPEC: Not as Farfetched as You Think," the author, Dan Morgan, claimed that we do have a great deal of leverage with regard to OPEC's wheat needs. The article states that the two criteria for U.S. economic leverage exist that it would be difficult for OPEC nations to do without our grain, and only this country and Canada can guarantee an ongoing supply of such magnitude.

If economic leverage is there with respect to wheat, I say that we can and should use it. We must try to do all that we can to try and stabilize oil prices.

There have been many of these so-called bushel of wheat for a barrel of oil proposals introduced into the House of Representatives. I think it is very important that this issue be raised in the Congress. All these proposals should be considered and thoroughly discussed and explored. The extent of our leverage, and the possibility of utilizing it should be the subject of extensive and intensive hearings by the relevant committees in the House. My bill, H.R. 4835, and another proposal I introduced, H.R. 4574, to establish a Council of Oil Importing Nations, were both referred to the Foreign Affairs Subcommittee on Economic Policy and Trade, chaired by my distinguished colleague from New York (Mr. BINGHAM). The gentleman from New York, chairman of the subcommittee, has assured me he will hold hearings on this bill; therefore, I shall not offer these amendments now and will await their determination at that time.○

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 27, add the following after line 24 and redesignate the subsequent subsection accordingly:

"(k) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any license is approved for the export of goods or technology valued at more than \$7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(1) Such country has repeatedly provided support for acts of international terrorism.

"(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

Mrs. FENWICK. Mr. Chairman, I do not think that we need a great deal of discussion. We have had a long debate on

this bill. The amendment speaks for itself. The definitions have been already determined in other sections of the bill, and in other legislation; and we all know about the recent acts of terrorism, of international terrorism, and what they are capable of doing. So I ask the adoption of the amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I want to compliment the gentleman on her amendment and express my support for it.

Mrs. FENWICK. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I support the amendment as well and accept it on behalf of the minority. As the gentleman knows, the amendment offered in the Committee on Foreign Affairs had some wording problem. Certainly there was no problem with the intent. This amendment is in perfect order.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding. I would like to join the others in commending her for this amendment. I think it was a lot more realistic than what was approved on the Senate side, and I hope that this amendment will prevail.

Mrs. FENWICK. I know the other body has a much more stringent provision. I think this is a sensible and wise amendment. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The amendment was agreed to.

□ 1400

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 10, strike out line 17 and all that follows down through line 4 on page 12 and insert in lieu thereof the following:

"(d) MILITARY CRITICAL TECHNOLOGIES.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be implemented for goods the export of which would transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing know-how;

"(B) keystone manufacturing, inspection, and test equipment; and

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"(C) goods accompanied by sophisticated operation, application, or maintenance know-how,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

"(3) (A) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act; and

(B) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

Mr. ICHORD (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the Record at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. ICHORD. Mr. Chairman, as I stated earlier in the colloquy with the distinguished gentleman from New York (Mr. BINGHAM), I am offering this amendment, not on my own behalf but on behalf of the Research and Development Subcommittee of the House Committee on Armed Services.

This amendment was approved unanimously by the Subcommittee on Research and Development.

Mr. Chairman, I would state again for the benefit of Members who may not have been on the floor of the House at that time, we are now dealing with a subject that is directly under the jurisdiction of the House Committee on Armed Services. Granted, the House Committee on Foreign Affairs is the expert and has the expert staff members with regard to foreign policy but here we are dealing with the expertise of the House Committee on Armed Services, namely the protection of the national security.

I might state the most important subject with which we could possibly be dealing is the national security of the United States.

We are dealing with export controls for the purpose of protecting the national security of the United States.

When I first read the bill, I voiced concern about the vagueness and ambiguities in the legislation. I think there is reason for that, perhaps. This is an extremely complicated bill dealing with some extremely complicated subjects. Nevertheless, Mr. Chairman, I first thought the gentleman from New York (Mr. BINGHAM) was right in step with the thinking of the Department of Defense and right in step with the House Committee on Armed Services when he included this section "military critical technologies" on page 10 of the bill.

I would state it was the finding of a 1976 Defense Science Board, chaired by Mr. J. Fred Bucy, president of Texas Instruments, that we install a critical military technology approach in solving this

problem with which we are faced in the field of export controls.

Mr. Chairman, I think I share the concern of all of the members of the House Committee on Foreign Affairs.

Mr. Chairman, I am not trying to restrict trade. Trade is very essential to the economic health and welfare of this Nation, but let me tell the members of the Committee on Foreign Affairs that even more essential to the health and welfare of this Nation is to protect our lead in technology. That is the only lead that we have today in the field of military affairs over our potential adversaries.

I went over the numbers a while ago. In tanks, we are outnumbered 7 to 1; airplanes, we are outnumbered 4 to 1; artillery pieces, we are outnumbered 6 to 1; and in chemical warfare we are outnumbered 50 to 1. Therefore, Mr. Chairman, we are dealing with the most crucial part of our military security, that is, our technological lead, the quality of our weapon systems.

Mr. Chairman, I concur with the 1979 Bucy Defense Science Board as do most of the experts in the research and development field and the entire Subcommittee on Research and Development.

They say, rather than concentrate on the end product one should concentrate on the critical technology behind that product.

Mr. Chairman, let me take some time in explaining this because it is an extremely technical matter. I am a generalist myself. I have a technical staff. I deal with a lot of technical problems. I might say that as a generalist I think I serve some purpose because sometimes the technologists cannot see the forest for the trees. They become too involved with the technical details.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. Mr. Chairman, we should not worry about exporting a particular commodity, which we are doing today. I would point out to the Members of this House that the man who ought to know, the Acting Director of the Export Administration Act has stated that our present export control program was a total shambles. I have that in the hearing record of the House Committee on Armed Services on H.R. 3216 dealing with this specific subject. Mr. Larry Brady testified it is an absolute shambles. He is the one who ought to know and I think the gentleman from New York (Mr. BINGHAM) will concur in that regard.

Let me say, Mr. Chairman, some Members of the House may disagree with me but I might not even object to the sale of 10 particular jet engines to a potential adversary. Ten jet engines in and of themselves might mean nothing. However, Mr. Chairman, I would object to the transfer of the manufacturing techniques or the metallurgical technology that goes behind the production of the jet engine blades. It is that about which we should be concerned.

There are several ways we can transfer our technological lead to our poten-

tial adversaries. We can do it through a scientific exchange program, we can do it through a technical data package. We can do it through turnkey packages, manufacturing processes and know how, or by maintenance and support capability.

I think this administration and past administrations have made a terrible mistake in building turnkey factories right in the countries that are our potential adversaries. That is where you transfer the manufacturing processes and know how. That is where you transfer the technological data of which I speak. That is where you transfer the maintenance and support technology. This is the export of our technological lead that we have.

Mr. Chairman, I will state to the Members of the House, I do not think we can keep our potential adversaries from some day getting this technology. I say that because they have a massive program to narrow the existing technological gap. They are doing it by clandestine methods, they are doing it by legal methods, they are doing it by illegal methods. Some day they are going to get it.

However, Mr. Chairman, we can delay them and maintain the only lead that we have: Our technology. We can delay them, say, for 10 years rather than 3 years.

□ 1410

That is extremely important, because that is how we measure a technological lead, in terms of time.

Now, when I first read the bill of the gentleman from New York, Mr. Chairman, I thought that I was in agreement with the gentleman as it appeared he was mandating the existence of a military critical technologies list; but after close reading, I find that the gentleman did not do that.

We took testimony, the Committee on Armed Services took testimony that this is the way to solve the problem. We can maintain a large trade in exports. We can maintain trade with the end product. Do not worry about the end product. Worry about the technology behind the production by establishing this military technologies approach.

I have testimony from Dr. Ruth Davis, who is head of the R. & D. in the Defense Department, Under Secretary for Research and Development. She says that she is ready to go with this critical military technologies approach. She stated personally to me that she can have the approach in place by October 1, 1980.

Now, the gentleman from New York in his bill, and I think the gentleman from New York is to be commended for at least recognizing the importance of this approach and the potential that it has, but the gentleman did not mandate the establishment of it.

Mr. Larry Brady, the Chairman of the Export Administration Board, testified they are ready to go with it within 1 year.

I will state to the gentleman from New York that this will solve the problem the gentleman is talking about. Even looking at this approach has resulted in the removal of 162 commodities from the export control lists, so I think it would

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accomplish the objectives of the gentlemen on the Committee on Foreign Affairs to increase our trade, but still protect on national security.

Mr. Chairman, I would ask that the members of the committee give support to this amendment in the interests of national security.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

First of all, let me say, Mr. Chairman, that I agree with I think 90 percent of what the gentleman from Missouri has just said. I very much agree that military critical technologies are the heart of this matter of national security export controls. In fact, in the bill which I originally introduced, we tried to limit controls exclusively to military critical technologies. But we found we could not do that, because the Defense Department had been wrestling with the question of what is a military critical technology for 3 years and had not been able to come up with the answers. As of the time we had our hearings, they were still struggling with it. It is still a crucial idea, a crucial concept.

The gentleman from Missouri, in making his eloquent plea, sounded as if we had not provided for a list of critical technologies.

Let me call attention to pages 10, 11, and the beginning of 12 in the bill, which deal with the subject of military critical technologies. The bill recognizes that the national interest requires that export controls under this section be focused primarily on military critical technologies. Then it goes on to say:

The Secretary of Defense shall develop a list of military critical technologies.

That is a mandate. If it is not, I do not know what is. It specifies what should go into the list. If you are a nonengineer, as I am, you will have difficulty understanding the specifications that are to be included in the list of military critical technologies that are set forth there on page 11, lines 4 through 9. But those are the very specifications that were taken right out of the Bucy report that the gentleman from Missouri (Mr. ICHORD) referred to. We take the Bucy report very, very seriously. We think it has brought a new and proper emphasis to the whole field of national security export controls.

Now, what the gentleman from Missouri did not make clear to us is just what his amendment does. It does not really change the language of the bill, except in a few respects. It follows it pretty closely. One thing it does is to eliminate this language which comes from paragraph (1) of subsection (d) on page 10: "export controls under this section be removed insofar as possible from goods the export of which would not transfer military critical technologies to countries to which exports are controlled under this section."

That is simply to emphasize the point that we are concerned with military critical technologies, and we want the agencies concerned to get rid of a lot of this underbrush which takes their time, which is not critical, which is not important, and let us get it out of the picture. That

is all that sentence says, but it does not contradict what went before in paragraph (1), which is "that the national interest requires that export controls under this section be focused primarily on military critical technologies."

Now, another thing the Ichord amendment does, with which I quarrel, and I must say quarrel only mildly, is that the Ichord amendment sets a deadline for the completion and publication of the list at October 1, 1980, a year away. We simply do not know whether the Defense Department will be ready at that point or not. The gentleman has said they have told him they are ready. That is not our information. We understand they are still struggling with it. In any event, hopefully they will have it ready before October 1. Maybe it will be a little later. That is not a matter of the utmost importance, in our judgment, since the gentleman has modified his amendment to say that the original version of the list shall be completed and published in an appropriate form. The words "in an appropriate form," which were not in the gentleman's original version of this amendment, recognizes, I take it, that some of this material must be classified and cannot be published for anyone to read.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the distinguished gentleman yield on that point?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the distinguished gentleman from New York is correct in pointing out this is one of the differences between my amendment and the approach in the bill. It definitely does establish a critical military approach on October 1, 1980; but the gentleman stated that there was no evidence to the effect that it could not be established within that time. I would point out to the gentleman in the hearing record on H.R. 3216 that the Committee on Armed Services conducted is the testimony of Mr. Larry Brady, the Director of the Export Control Agency, who has been working on this matter with the Defense Department. Mr. Battista, a staff counsel, asked him this question:

Can you achieve it in 180 days?

Mr. BRADY. I do not think so.

In what time frame do you think?

Mr. BRADY. I think six months to a year perhaps. Six months to a year.

I would state to the gentleman from New York that I personally called Dr. Ruth Davis. She gave me the assurance, and Dr. Ruth Davis has the overall responsibility for the establishment of this approach, that she can put it into being in 1 year; so I have no doubt about their being able to institute the approach.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for his contribution.

May I say again that before our committee, the Defense Department, which has the responsibility for the prepara-

tion of the list—Mr. Brady, of course, has no responsibility for the creation of the list—was dubious as to whether it could be done within the matter of a year. But let me proceed, because that is just one of the three differences, and I think it is the least important difference between the version of the gentleman from Missouri (Mr. ICHORD) and the version of the bill.

□ 1420

The third point is the most important one. In the legislation, after the list has been developed, under paragraph (4) we say:

The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list subject to the provisions of subsection (c) of this section.

Mr. Chairman, the amendment offered by the gentleman from Missouri (Mr. ICHORD) leaves out the last part of that sentence. In other words, under the proposal of the gentleman from Missouri, the list prepared by the Secretary of Defense becomes part of the control list without anybody else having anything to say about it. It is solely the responsibility of the Defense Department, and that is an area in which we and, I may say, the Defense Department also strongly disagree. We say that this total process of deciding what should be on the control list has been and should continue to be a joint process. The Defense Department has the leading role.

I want to emphasize that in no case has the Secretary of Commerce sought to override the Secretary of Defense on matters of a license issuance. The Defense Department is satisfied that the procedures that have been in effect before, bringing in other agencies, the Commerce Department and the State Department, should be continued.

It is that point on which I think we primarily differ. It is not on the question of the importance of focusing on military critical technologies.

Those are the three differences in the version offered to us by the gentleman from Missouri (Mr. ICHORD) and the bill before us which, as I say, emphasizes the importance of this concept.

Mr. Chairman, I hope that the Committee of the Whole will go along with the position recommended by the Committee on Foreign Affairs and will reject the amendment.

Mr. ICHORD. Mr. Chairman, will the gentleman yield on that particular point?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I think the gentleman from New York (Mr. BINGHAM) has delineated the differences except in one respect. There is a third or a fourth major difference, and that, I would point out, is the result of an oversight by the people drafting the bill.

I direct the attention of the Members to page 11, line 10 of the bill, where this is stated:

... which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a major advance in a weapons system of any such country.

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That is not in keeping with the policy statement on page 4, and I read from page 4, line 12:

It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution * * *.

Mr. Chairman, when the bill uses "major" and "significant," in that manner, there is one heck of a difference, I would say to the gentleman from New York (Mr. BINGHAM).

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, if I may respond to the gentleman from Missouri (Mr. ICHORD), the gentleman is quite right in pointing out that that is a difference. It is not a difference which I consider to be a significant one. If the gentleman believes it is and if his amendment is voted down and he wishes to offer an amendment simply to change the word, "major," to "significant," I would not oppose it.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would, first of all, like to commend the gentleman from Missouri (Mr. ICHORD) for his involvement in this in trying to protect military critical technologies, from improper export because it is essential to our defense effort to protect our technologies.

On the other hand, however, we are experiencing delays in the regulatory process and denials which are causing tremendous adversity to industry in the United States of America which is trying to do something about the export imbalance and the balance of trade deficit which is contrary to the interests of the United States of America.

One association which has a great deal of involvement in my district, the American Electronics Association, surveyed its more than 1,000 member companies, which is small in terms of all industry of the United States, on their export trade activities. They had a very good response. About 400 of the 1,000 responded to the inquiries that were sent, and they clearly demonstrated that the present export control system, where we are bounced around from State to Commerce to Defense, with no hope in some cases of any kind of a decision at all, results in the fact that jobs are lost and trade is lost.

It was revealed that in 1978 over \$1 billion in sales in just one small segment of our economy was denied, not because it was going against military technology transfer in the critical sense but because there were export licensing delays and denials and just plain uncertainties. These losses contribute to our deficit in the balance of trade. They also contribute to the lack of employment increase in the United States as well as the loss of jobs for thousands of Americans.

Mr. Chairman, I commend the gentleman for preserving military critical technologies, and I hope, as this bill passes

on its way through this House and beyond, that we can do something about the ridiculous denials, delays, and over-regulatory processes that keep our country from being in the export market and cause the loss of American creditability throughout the world as a reliable supplier.

Mr. Chairman, I commend the gentleman for offering this bill, and I commend the gentleman from Missouri (Mr. ICHORD) for offering this amendment. I hope that in the future we may put ourselves in a position where we allow people to export technology and export goods from this country, which can be done with no threat to our military defense.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. COURTER asked and was given permission to revise and extend his remarks.)

Mr. COURTER. Mr. Chairman, I support the amendment offered by my distinguished colleague, the gentleman from Missouri (Mr. ICHORD).

There is obviously a crying need to control the export of technology which would be detrimental to our national security. It makes little sense to make available to potential adversaries our most sophisticated technologies which would contribute to their military capabilities.

Incredibly, it is obvious from the testimony that we heard in the Subcommittee on Research and Development that this technology is very often clearly available to those people who would make themselves our adversaries today. Any sampling of the hours of testimony presented before the Subcommittee on Research and Development chaired by the gentleman from Missouri (Mr. ICHORD) on the issue of exporting military critical technologies reveals a frightening story of an almost unchecked flow of technology out of this country to other countries. This includes computer technology, micro-computer technology, micro-circuitry technology, electronic technology, optical technology, and laser technology, that goes into Soviet hands. Whether it goes directly, or indirectly by some other means, it is apparent that the control of military critical technology is woefully inadequate at the present time.

I think that the bill as submitted speaks to that particular problem, and I think that the Ichord amendment strengthens it and speaks even more clearly. These technologies are being shipped to the Soviet Union directly, and often they are sent indirectly.

The transfer of military critical technology is dramatically eroding our qualitative lead over the Soviet's military capability. And that is all we have right now, a qualitative lead. We do not have a quantitative lead.

The gentleman from Missouri (Mr. ICHORD) articulated the fact that we are woefully behind in tanks, in artillery, in airplanes, in aircraft, and in other areas.

The current export control mechanisms which this bill seeks to improve are unworkable. On one hand they inhibit

our export trade, and on the other they permit vital technology to fall into the hands of those who would turn that technology against the United States of America.

The amendment offered by the gentleman from Missouri (Mr. ICHORD) seeks to strengthen the Export Administration Act by allowing the Secretary of Defense to develop a list of military critical technologies, not only to develop this list but do so quickly and in fact, by a day certain.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, on that point I think the gentleman from New Jersey (Mr. COURTER) has put his finger on the point that is most important. This amendment is offered with a view of increasing trade, not decreasing trade. As I pointed out in my own statement, I think the gentleman from New York (Mr. BINGHAM) will agree with the Director of the Board, Mr. Larry Brady, when he says the present export control program is in a shambles.

□ 1430

This is all he had to say about 4034. If I thought 4034 would straighten up this shambles, I would not be offering this amendment, and I do not think the gentleman in the well would now be in the well.

Mr. Brady says:

The House bill also has another provision in it which is not workable.

Mr. ICHORD. What bill are you talking about now?

And I am reading from the report—

I am talking about 4034. When you take the deadlines together with the appeals procedures, I am firmly convinced that we will tie it into context. The effect of that will be that the business community will say accurately the system does not work, it needs changing, it needs replacing, it is no good.

It is in that spirit that I offer this amendment.

I commend the gentleman in the well for the remarks that he is making.

Mr. COURTER. I thank the gentleman for his observations. It is so true. To adopt the amendment, is to add clarity, making a date certain as to when a list of critical military technology would be written and made available.

I might add, basically, there was a statement made by an individual in the other body, which was repeated in the Defense/Space Daily on July 25 of this year.

In 1961, the Soviets attempted to obtain from the U.S. grinder machines used to mass produce ultra-high precision miniature ball bearings. Congress interceded and, with the support of President Kennedy, blocked this sale. However, the Soviets persisted and finally in 1972—12 years later—these machines were sold to the Soviets. In 12 years the Soviets could not master this technology, but finally we gave it to them.

This amendment speaks to that very critical problem, and I urge my colleagues on my side of the aisle and on the other side of the aisle to support it.

The CHAIRMAN. The time of the

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gentleman from New Jersey (Mr. COURTER) has expired.

(On request of Mr. BINGHAM and by unanimous consent, Mr. COURTER was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, just in relation to the ball bearing cases, the Bryant Grinder case, the facts there were that for 12 years the industry, the exporters, were claiming that the Swiss were producing identical machines and they were getting the business with the Soviet Union. It took years for them to persuade the administration that that was the case. Finally foreign availability was established and the licenses were issued.

Mr. DORNAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am heartened to see that the amendment offered by the gentleman from Missouri (Mr. ICHORD) will tighten up this title I, the title that mandates the development of a list of critical technologies by the Secretary of Defense. If the Department of Defense does not have the capability to do this, then we are in worse shape than I would ever have imagined, and they better harness some of the multitude of Ph. D.'s they have over there to develop this expertise.

I was very pleased to see that the authors of this bill employed the suggestions of the report on export of technology for the Defense Science Board presented by Mr. Fred Bucy, president of Texas Instruments, namely, providing guidelines on design and manufacturing, keystone manufacturing, test equipment and goods of a militarily sensitive nature.

As much as I appreciate their efforts, I do not believe that the wording of the measure goes far enough in defining or clarifying the guidelines for the Secretary of Defense who is charged with developing a list of critical technologies. But in the interest of team play here, I will defer this year to the excellent amendment of the gentleman from Missouri. All the more reason to support him is that there are Members who feel, as I do, that we cannot be too specific in this area.

I ask my colleagues in the House to recall again what was just discussed, the 1972 sale of 164 Centalign-B precision grinding machines. They were used in the production of precision miniature ball bearings. The equipment produces small, pinhead-sized ball bearings of almost perfect uniformity. The sale was made by the Chucking Grinder Co. of Vermont. It was approved by the State Department. A significant use of precision ball bearings is in missile guidance systems used in this country and also in the Soviet Union. The Defense Department warnings were overridden more than once. The Soviet Union now has 7,100 MIRV warheads on heavy missiles, including the awesome heavy SS-18, which can now strike targets within a radius of 600 feet.

I ask my colleagues to also consider the 1976 plan for Control Data to sell the Soviets its most sophisticated computer, the Cyber 76 or 7600 series. That sale was canceled because many of the Members of this House—I circulated a list myself. I believe a record-breaking 315 signatures of the House Members blocked this sale by putting pressure on the administration. And, as we all remember now, there were only a small number of Cyber 7600 series computers in operation, and they are still only in the most sensitive or militarily critical agencies of the U.S. Government: The National Security Agency, the Energy Research and Development Agency, NASA, and the U.S. Air Force.

That Cyber 76 is still at least 40 times faster in processing information than its nearest Soviet counterpart. It is incredibly naive, as some members of the business and political communities would have us believe, that the Cyber 76 or a comparable computer would be used by the Soviets for purely peaceful, domestic purposes. It is incredible, indeed nightmarish, that such a sale was actually contemplated. We need assurance that such a sale is never contemplated again.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. BINGHAM. Our subcommittee had hearings on the ball bearings case 3 years ago and brought out all of the facts about foreign availability in that respect. I just point out in that regard that the test of the MIRV's occurred before any of the licenses were issued for those ball bearings.

On the Cyber 7600, we also had hearings.

It is not correct to say that export licenses were ever contemplated by anybody, certainly nobody in our committee.

The gentleman is correct in pointing out the Cyber 7600 is something we do not want to export to the Soviet Union, but the point I want to make is that nobody, in the control mechanism we have had, was in favor of that.

Mr. DORNAN. The gentleman had excellent committee hearings and allowed me to sit in on even some of the executive committee hearings. Those hearings certainly put the nails in the coffin of that sale.

We had a very new Secretary of Commerce then, and in a personal phone conversation with her office—I was not aware other people were listening in until they interrupted finally, and I asked them to identify themselves—she gave me the clear impression that it was indeed being contemplated.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. DORNAN was allowed to proceed for 3 additional minutes.)

Mr. DORNAN. You recall a memorandum was discovered that showed Control Data was of the opinion that completely circumnavigated the State and Defense Departments of this country to build the largest computer in the

world, even bigger, they hoped, than the current state of the art.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Missouri.

Mr. ICHORD. I think the record will show, will not the gentleman in the well and the gentleman from New York agree, that the Commerce Department was in favor of the export of the Cyber 7600? The Defense Department objected and, I believe, they had to go to the President for a resolution?

Mr. DORNAN. It was, at the White House; but there was divided opinion in the Commerce Department. The final decision never really came down from the new Secretary of that Department, Mrs. Juanita Kreps.

Mr. ICHORD. Certainly the Cyber 7600 was not quoted. The gentleman from California is correct.

I brought up another matter, which should be of great concern to this body, and that was the matter of the precision ball bearings.

I will state to the gentleman from New York—and this is another reason why this critical technology approach is so important—it would not have been so important if you had just transferred the precision ball bearings themselves. We didn't do that. We transferred the machinery to make ball bearings, which really put them in the position of making the precision ball bearings which can be used in MIRV'd missiles. This is what I am talking about. I doubt if they could engineer precision ball bearings themselves and make them in large quantities. It is the technology we are concerned about.

Mr. DORNAN. If I could add, the gentleman from New York is quite correct that the testing of some of these MIRV's had gone on before this particular sale. However, it is the constant increase in accuracy, down to very small differences, that transforms a MIRV'd warhead into a killer warhead capability.

Mr. ICHORD. Is it not generally agreed in the technological community that the Soviet Union could not have had the precision that they now have today if it had not been for the export of this technology?

Mr. DORNAN. Absolutely correct.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the distinguished gentleman from New York.

Mr. BINGHAM. The fact is that the Swiss were selling machines capable of producing the same degree of accuracy. It was that reason the licenses were issued. The Swiss were not just selling ball bearings; they were selling the machines to make the ball bearings.

□ 1440

That was the issue that was discussed at length in our hearings 3 years ago. We put out a report for the entire Congress. The significance of it was that as far as foreign availability that there was no way we could prevent that technology from being exported to the Soviet Union. The Swiss are not members of the—

Mr. DORNAN. If I could finish some

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of my remarks and give me the time, I will certainly engage further in colloquy.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(At the request of Mr. JOHN L. BURTON and by unanimous consent, Mr. DORNAN was allowed to proceed for 5 additional minutes.)

Mr. DORNAN. I thank the gentleman.

In his report to the Defense Science Board, Mr. Fred Bucy of TI also declared that the definition of technology must be used in a specific sense if the issues are to be clarified. That is his quote.

I agree with this statement and other statements of Mr. Bucy entirely, specifically when our national security is at stake.

The issue to be clarified is the relationship between the export of technology and our national security. The key to that relationship is the production of military weapons systems.

The relationship between technology and goods and the weapons systems of actual or potential adversaries, especially the Soviet Union, is critical. It mandates the Secretary of Defense to give emphasis to this bill and the amendment of the gentleman from Missouri (Mr. ICHORD) with even more specificity to advance the state of the art or emerging technology in the possession of the United States, which is indispensable to current or projected U.S. military systems.

In light of state of the art or emerging technology, we must take into consideration the fact that the military value of the new technology is time dependent. Dr. Ruth Davis, Deputy Under Secretary of Defense for Research and Engineering, has correctly pointed out that our national security has in recent times become increasingly dependent upon our military technological superiority, which in turn is based on maintaining our technological leadtime.

I conclude by noting that this problem includes the transfer of goods or products that may embody critical technologies of a military sensitive nature.

We simply must counter the export of goods, which through a process of reverse engineering, could facilitate the design and manufacture of military systems or reveal critical elements of the U.S. military system.

The Ichord amendment definitely helps to plug some of these leaks.

I remind all my colleagues that during the past 10 years approximately \$10 billion annually has been expended on military R. & D. to maintain our lead in this military technology field; and for this past fiscal year our Congress has voted \$12 billion for R. & D.

If it is true military security or military superiority is tied directly to maintaining a lead in the technological revolution, then we simply must make every effort to maintain that lead by preventing the transfer of militarily sensitive technologies upon which our security is based, even if we infringe—and I say this as a defender of free enterprise—occasionally on the side of an imbalance

of payments or the free commerce in technology throughout this world in the West.

To do that, we must, as Mr. Bucy suggests, be specific, as specific as is humanly possible.

We must give the Department of Defense a clear indication of what guidelines this Congress wishes them to follow. There should be no doubt about the intentions of my colleagues in this matter. If we err, as a famous chairman of the Defense Committee in this House said for years, let us err on the side of security.

I urge my colleagues to support this excellent amendment by the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

The gentleman from New York (Mr. BINGHAM), brought in the matter of availability in the case of precision ball bearings, which the gentleman from California raised.

I would point out to the gentleman from New York that is something we could argue about as nontechnologists particularly until doomsday as to whether that availability did exist.

Mr. DORNAN. An unusual choice of words.

Mr. ICHORD. This is what we are doing in this amendment. Yes, we are saying that the Department of Defense is the one who should decide whether there is critical military technology involved.

They are the ones who should decide the availability, because they have the intelligence. That is their duty. Now, the State Department has the responsibility in the case of foreign policy, but my God, let us not put the Secretary of Commerce in charge of the defense of this Nation.

I agree with the gentleman from New York, that is the main difference. The Secretary of Defense is responsible for the national security of this country.

Now, both the Secretary of Defense and the Secretary of Commerce are answerable to the President of the United States, who is Commander in Chief, but why not pinpoint responsibility? That is why we have such a shambles today. We do not pinpoint responsibility.

Mr. DORNAN. The reason, even though we have a slight quarrel here over degree, that I am so ecstatic over this bill, the chairman's hearings and the gentleman's contribution, the gentleman from Missouri (Mr. ICHORD), is that it emerges out of a long history of debate on these critical national security issues.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(At the request of Mr. DORNAN, and by unanimous consent, Mr. ICHORD was allowed to proceed for 1 additional minute.)

Mr. DORNAN. It is an old story for those interested in aerospace that the reason that the Mig-15 appeared as a swept-wing fighter in Korea that could

outmaneuver and outaccelerate the F-86 is because the British sold them the main jet engine.

We have a problem not only with reverse engineering but with "eyeball technology transfer" that we cannot do anything about. That is an expression I have coined after I sat on the Ilyusin 76 and 86 aircraft at the Paris Exposition in 1977.

If you look at the Concorde and the Soviets' ill-fated Tupelov 144's, if you look at the Backfires as opposed to our B-1, if you look at their latest fighter technology—Aviation Week and Space Technology a few weeks ago showed they have copied our F-18, our A-10 and our F-15 and F-16, maybe through "eyeball technology", that is all the more reason we should not help them with critical technology or goods, as we have done in the Kama River truck factory, with computers to help them reverse engineer in addition to what they get stealing from all of the European countries through their agents.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I want to support the chairman of the subcommittee in opposition to the amendment of the gentleman from Missouri. I think the bill that he has written is a good one. I wish we had not adopted many of the amendments that we already have.

In my district, it sometimes takes as long as 16 months to get a license to export a very simple piece of machinery. There are thousands of workers within my district whose livelihoods depend on our ability to sell overseas.

It seems to me that we are being over-protective in our desire to see that we do not ship military technology abroad.

None of us wants to do that.

In defense of the subcommittee chairman, I would like to say that when the ball bearing incident occurred, the jurisdiction for this material was of course in another committee. That other committee continued the same kind of hearings that the gentleman conducted on the subject—that was the Banking Committee at the time—we found the same thing, that the exact material or machinery was available from the Swiss and could be sold and that was the reason for the issuance of that license.

With respect to Cyber 76, Mr. Chairman, that machine is made within my district.

If this country decided that it did not want to sell or to lease or to allow to be used on some kind of contractual basis by Russia, that machine, so be it; and I honor that decision, because I certainly do not want to give away any military technology. I would not like to have the House think there is any attempt by the employees or managers of that company to get around the U.S. restrictions, whatever they may be, whether they are good laws or bad laws.

Those are patriotic people. They are good people. What they were trying to do in that sale is to sell some technology

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that was 20 years old to be used for international meteorological analysis, and in my judgment there was no reason not to sell the machine.

However, we decided not to sell it, and so that was done with.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I want to confirm the statement just made by the gentleman from Minnesota. Certainly no one should question the patriotism of the manufacturer of the Cyber 76, because they are not in a position to make the necessary decisions to protect our national security.

□ 1450

This particular company should not be the one protecting the national security of the United States. Here the gentleman confirms my point. It should be the Secretary of Defense that has that responsibility. An individual company is not in a position to make that decision.

Mr. FRENZEL. I thank the gentleman for his contribution, but I want to be sure everybody knows that there is no intent to subvert whatever law might be on the books. I hope that point is clear.

The other point I want to make is this was a 20-year-old piece of technology.

The final point I want to make is that it still takes often a year to sell technology that has no military application whatsoever, because we have to wind our way through tortuous processes that involve department after department.

I think the language of the bill, which says that, if it is not military, then we will try to make it easier, makes a lot of sense. It makes sense particularly since we are running this enormous deficit in our balance of trade, and because we are nervous about our employment and we would like to have the U.S. employees producing goods for export. I think it is fine if we prohibit all of these sales of military technology, but let us leave the language the way it is. It specifies both. It says do not give away the military, but it also says let us make it easier to sell this stuff that is not military.

I certainly hope the amendment will be defeated.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Ichord amendment. As the gentleman from Missouri has pointed out, in our technology race, if you will, with the Soviet Union, all we can really do is to delay technology. We have all seen how every technology that we have developed has been adopted sooner or later by the Soviets. But it is important that we continue to develop such technology and keep it out of the hands of our adversaries.

I think it is also very important, although it is not before us today, that we continue to make the kind of investments in research and development that

are needed to stay ahead of our adversaries. This provision, the Ichord amendment, is a refinement of what is already in the bill, but it makes even more clear that we are serious about protecting military critical technologies.

For example, on pages 10 and 11 the Ichord amendment makes a change by stating something positively instead of negatively, as the bill presently does. The Ichord amendment would provide that export controls be implemented for goods, the export of which would transfer military critical technologies. The bill, as now written, takes the opposite viewpoint and says that goods should be removed from the list unless they affect our security.

It is really a matter, I think, of making sure that the correct signals are being sent to our adversaries and that we will not jeopardize our national security.

Incidentally, when this bill came out of the subcommittee and was before the full committee, Department of Defense officials told me that although the way the bill had been amended really took care of a lot of their problem insofar as the law would actually read, they were quite concerned that the wrong signals would be sent. It is a matter of emphasis.

The amendment further requires that the Defense Department proceed expeditiously with development of the military critical technologies approach. It has been working on that for 3 years and it should not be delayed any further than is required.

I believe that this amendment is a very important amendment. It is not as important perhaps as it once was, because we did make some changes in the bill. But we should not stop there. I think we should adopt this amendment, that will send the proper signal to our adversaries, that is, that we are serious about controlling our technology and that we do think that the Department of Defense should have a very important part to play in this whole process of trying to prevent our adversaries from gaining access to our military critical technology.

○ Mr. DICKINSON. Mr. Chairman, I would like to voice my support for the rapid implementation of the military critical technologies approach to controlling the flow of U.S. military technology to our adversaries. Like the gentleman from Missouri, I am very concerned that our technological lead over the Soviet Union is rapidly eroding. This erosion is due both to Soviet efforts in developing their own technology base together with capitalizing on technology that has been directly transferred to them from the West.

This effort has led to recent Soviet advancement in high technology areas such as the development of: First, a highly accurate ICBM guidance system; second, a look-down/shoot-down interceptor aircraft; third, a killer satellite; fourth, an advanced submarine; and fifth, a new family of high speed computers.

There is virtually nothing we can do to stem the Soviets relentless pursuit of technological excellence through their

own laboratory efforts—over the past 5 years they have outspent the United States by over \$40 billion in this area—but we can help to protect our own technological breakthroughs by strengthening the military critical technology provision in this bill. I join my colleagues in asking for your support of his amendment.○

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 27, noes 9.

RECORDED VOTE

Mr. BINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 145, not voting 16, as follows:

[Roll No. 456]

AYES—273

Abdnor	Edwards, Okla.	Kindness
Addabbo	Emery	Kogovsek
Akaka	English	Kramer
Alexander	Erdahl	Lagomarsino
Ambro	Ertel	Latta
Andrews,	Evans, Del.	Leach, La.
N. Dak.	Evans, Ga.	Leath, Tex.
Anthony	Evans, Ind.	Lee
Archer	Ferraro	Lent
Ashbrook	Fish	Levitas
Atkinson	Flippo	Livingston
Bafalis	Florio	Lloyd
Bailey	Foley	Loeffler
Baldus	Ford, Tenn.	Long, La.
Barnard	Fountain	Long, Md.
Bauman	Fowler	Lott
Beard, Tenn.	Frost	Lujan
Benjamin	Fuqua	Luken
Bennett	Gaydos	Lungren
Bereuter	Gephardt	McClory
Bethune	Gilman	McDade
Bevill	Ginn	McDonald
Biaggi	Glickman	McEwen
Boggs	Goldwater	McKay
Boner	Gonzalez	McKinney
Bouquard	Goodling	Madigan
Bowen	Gore	Marlenee
Breaux	Gradison	Marriott
Brinkley	Gramm	Martin
Brooks	Grassley	Mathis
Broomfield	Grisham	Mazzoli
Brown, Ohio	Guarini	Mica
Broyhill	Gudger	Michel
Buchanan	Guyer	Miller, Ohio
Burgener	Hagedorn	Minish
Butler	Hall, Tex.	Mitchell, N.Y.
Byron	Hammer-	Mollohan
Campbell	schmidt	Montgomery
Carney	Hance	Moore
Chappell	Hansen	Moorhead,
Clausen	Harsha	Calif.
Cleveland	Heckler	Mottl
Clinger	Hefner	Murphy, N.Y.
Coelho	Hefelt	Murphy, Pa.
Coleman	Hightower	Murtha
Collins, Tex.	Hillis	Myers, Ind.
Conte	Hinson	Natcher
Corcoran	Holland	Nelson
Cotter	Hollenbeck	Nichols
Coughlin	Holt	O'Brien
Courter	Hopkins	Oakar
Crane, Daniel	Horton	Panetta
Crane, Philip	Howard	Pashayan
D'Amours	Hubbard	Patten
Daniel, Dan	Huckaby	Paul
Daniel, R. W.	Hughes	Perkins
Dannemeyer	Hutto	Pickle
Davis, Mich.	Hyde	Price
Davis, S.C.	Ichord	Quayle
de la Garza	Ireland	Quillen
Deckard	Jacobs	Rahall
Derrick	Jeffries	Railsback
Devine	Jenkins	Regula
Dickinson	Jenrette	Rhodes
Dornan	Johnson, Calif.	Rinaldo
Dougherty	Jones, N.C.	Ritter
Duncan, Oreg.	Jones, Tenn.	Roberts
Duncan, Tenn.	Kazen	Robinson
Early	Kelly	Roe
Edwards, Ala.	Kemp	Rose

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Roth
Roussetot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebellus
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder

Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Ullman
Van Deerlin
Volkmer
Walker

Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolf
Wright
Wyatt
Wydler
Wyllie
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOES—145

Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badham
Barnes
Bedell
Bellenson
Bingham
Blanchard
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conable
Conyers
Corman
Danielson
Daschle
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Fary
Fasell
Fazio
Fenwick

Findley
Fisher
Fithian
Ford, Mich.
Forsythe
Frenzel
Garcia
Gialmo
Gibbons
Gray
Green
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Holtzman
Jeffords
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lehman
Leland
Lewis
Lowry
Lundine
McCloskey
McHugh
Maguire
Markey
Marks
Mattos
Mavroules
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Myers, Pa.
Neal
Nedzi

Nolan
Nowak
Oberstar
Obey
Ottinger
Patterson
Fease
Pepper
Petri
Peyser
Preyer
Fritchard
Pursell
Rangel
Ratchford
Reuss
Richmond
Rodino
Rosenthal
Kostenkowski
Sabo
Scheuer
Seiderling
Shannon
Simon
Smith, Iowa
Solarz
Spellman
Stark
Stewart
Stockman
Stokes
Studds
Swift
Thompson
Traxler
Udall
Vander Jagt
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Wirth
Wolpe
Yates
Zablocki

NOT VOTING—16

Anderson, Ill.
Applegate
Beard, R.I.
Carter
Cheney
Derwinski

Diggs
Drinan
Flood
Gingrich
Leach, Iowa
Lederer

McCormack
Matsui
Roybal
Young, Alaska

□ 1510

The Clerk announced the following pairs:

On this vote:

Mr. Beard of Rhode Island for, with Mr. Lederer against.

Mr. MARLENEE and Mr. LUKEN changed their votes from "no" to "aye."

Mr. TRAXLER changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to section 104?

AMENDMENTS OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. GLICKMAN: On page 8, line 24, insert the following new sentence immediately after the period: "Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this Section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate."

On page 23, line 6, insert the following new sentence immediately after the period: "Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this Section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate."

Mr. GLICKMAN. Mr. Chairman, I ask unanimous consent that the two amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, the purpose of these amendments is to require the Secretary of Commerce in both cases where an application for an export license has been denied either for national security reasons or for foreign policy reasons, to give the applicant some reasons why it has been denied and to suggest to the extent feasible what modifications or restrictions on the technologies and goods for which the license is sought could be changed to be compatible with getting the items exported, or if that is too administratively difficult, at a minimum to let the applicant for the license know which department official is in charge of his license application so that that applicant can go to that person and find out what is wrong with the application and how the problem can be remedied. The reason for that, Mr. Chairman, is the fact that while many large businesses—whether they be the Boeing Co. or Cargill—have lobbyists up here and work very frequently with the department officials to find out whether export licenses can be approved or not, small businesses do not have that financial capability. So the purpose of the amendments, Mr. Chairman, is to require the Secretary to do one of two things. When an export license is denied by reason of national security control or foreign policy: First, he shall include in the notice to the applicant if there are any modifications or changes that need to be made in order to get the items exported; or, second, if he cannot do that, to let the applicant know who in the Department of Commerce will be made reasonably available to the applicant so that the applicant can then go back and try to work out something to get the items exported. The whole purpose is that the Department in effect already does this for big business, and all I am trying to do is to insure that all busi-

nesses have the capability to figure out how to cure any defects in their export licenses in order to insure that we can get goods reasonably exported without unreasonable delay.

I understand that the Department of Commerce was concerned in that the language of this amendment could bureaucratize even more their agencies. So I have structured the language to indicate that if the department in charge could not specifically indicate what was wrong with the export license, at a minimum that department would be required to let the applicant know who in the department was familiar with the application so that he could help the licensee out and get the license approved if possible. Basically, this amendment is just an incentive to try to get as many export licenses approved to the extent possible and try to help a lot of people in this country who cannot afford a Washington lobbyist to help them.

I think it is a straight forward and simple amendment.

□ 1520

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

We have had an opportunity to examine these amendments. We have no objection to them.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. This whole bill is an attempt to balance between the attempt to make it easier to get the licenses to export noncritical technical goods and the desire on the other hand as was demonstrated by the last vote, to secure our security.

This amendment does what many of the speakers who opposed the last amendment does. It makes it easier for business to get licenses approved, it treats the little guy like the big companies are already treated. I think it is an excellent amendment and I strongly urge its adoption.

Mr. GLICKMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 16, strike out lines 8 through 23.

Redesignate the following subsections accordingly.

Mr. ICHORD. Mr. Chairman, I first wish to thank the members of the committee for the overwhelming vote on the last amendment that I offered.

As I pointed out on the previous amendment, this is not my amendment. This is an amendment unanimously reported by the Subcommittee on Research and Development of the House Committee on Armed Services. I reiterate this

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is not my amendment, it is an amendment of the House Committee on Armed Services.

Mr. Chairman, this amendment deletes section 5(g), the concept of indexing.

I apologize to the gentleman from New York (Mr. BINGHAM) for bringing the matter up out of order but I was so concerned about this particular provision of the bill, and as I stated, I asked my technologist on the Research and Development Subcommittee staff just what the language of section 5(g) meant, "indexing." I asked witnesses who came before the committee about the subject of indexing and no one could satisfactorily explain it to me.

The gentleman states on page 18 of the report:

Subsection (g) provides that the Secretary may, where appropriate, establish an indexing system providing for annual increases in the performance levels of goods and technology subject to license requirements under this section, in order that such requirements may be periodically removed as such goods and technology become obsolete. This provision is particularly applicable to computers.

Again, I want to know about this provision. I do not understand it. Why is it particularly applicable to computers, I would ask the distinguished gentleman from New York (Mr. BINGHAM).

Mr. Chairman, I have not been able to get an answer.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. BINGHAM. First of all, let me say, if the gentleman is puzzled by the word "indexing," I would point out that the text of the section that the gentleman would like to knock out of the bill does not use the word, "indexing." Indexing is sort of a shorthand way of referring to the process in which we are here interested, which is to have periodic removal from the list of goods and technology that no longer qualify as being necessary to control for export for national security reasons. That is all we are talking about. It is an authorizing section. It mandates nothing. As far as the gentleman's particular question is concerned, I thought it was generally understood—I certainly so understood it—that the technology of computers has been rapidly advancing, and what is an advanced computer today, 2 years from now may be old hat. That is all we are talking about.

Mr. ICHORD. That may be so, but one must take into consideration the level of our technology. One must take into consideration the level of technology of the potential adversary. How can the gentleman say with certainty, today, that a particular computer technology will be obsolete, say, 3 years from now?

Mr. BINGHAM. Mr. Chairman, all we here ask for is that where appropriate the Secretary issue regulations to provide for periodic renewal of the examination of the list. I should think the gentleman would agree that, as items become no longer critical, they should be taken off the list so the people over there do not have to bother with it.

Mr. ICHORD. Let me take the distinguished gentleman from New York through this bill. Let us go to page 10. The gentleman already has that authority. If that is all the gentleman was doing by this language I would be little concerned.

Let us refer to page 10 of the bill. I read this language:

The Secretary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2) (A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. Mr. Chairman, section 32(a) refers to controls for national security purposes.

Here the Secretary of Commerce has the authority for continuous review of the control list. He can take them off. Certainly we should not keep controls on piston engines, for example. I rather doubt if we should keep controls on just the ordinary jet engine. If you had a jet engine involving critical military technology, perhaps you should.

I thank the gentleman for his explanation. It makes me reiterate that I believe the Committee should support the House Committee on Armed Services in its unanimous reporting of this amendment.

Let me again point out to the Members, Mr. Chairman, the only place where we have a lead over our potential adversaries is in the field of technology, and particularly in the field of computer technology.

As the gentleman has explained, this indexing concept envisions the establishment of thresholds below which goods or technology would no longer be subject to controls.

Another example might be the case, as the gentleman stated, of a computer where a certain speed or memory capacity might be set as a threshold for, say, January 1, 1980. On that date all controls would be removed from computers. The gentleman says this is especially applicable to computers. Having a speed or capacity less than the established threshold.

Mr. Chairman, I submit this concept is flawed in two respects. First, it is an attempt to forecast technology in advance and predetermine the state of the art at a given time. I submit this is a very dangerous way to establish our export controls.

One cannot tell whether a particular technology, today, is going to be obsolete on January 1, 1980, or January 1, 1981. We already have the authority on page 10 to review the items on the control list. I think it particularly dangerous to proceed with such a vague, ambiguous control concept. Let us not fool around with computers where we certainly have a lead over the Soviet Union.

□ 1530

This is the only place that we have the lead. For the benefit of those Members who were not here when I sub-

mitted the first amendment, let us face it. In terms of numbers, we are out of the ball park. The gentleman from Florida (Mr. BENNETT) and the chairman of the full Committee on Armed Services who sit in front of me, know the numbers, they know we are outnumbered 7 to 1 in tanks. They know we are outnumbered 4 to 1 in aircraft. They know we are outnumbered 6 to 1 in artillery pieces. They know we are outnumbered 50 to 1 in chemical warfare. The only place where we have a lead is in technology, and again I reiterate, especially computer technology.

Let us not open up the gate and lose that particular lead; so on behalf of the Committee on Armed Services, I hope that the Committee will also adopt this amendment.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment. Again, we are in substantial agreement that it is desirable for the list to be constantly reexamined so as to take off those items which need no longer be controlled.

This section, which is entirely permissive with the Secretary of Commerce, does not mandate anything. The purpose of it is to encourage setting up a system for taking items off the list, so that it will not be a case of items being taken off one by one or two by two, which never catches up with obsolescence.

The number of export license applications is increasing by about 20 percent per year. It is currently running at an annual rate of close to 80,000. This is causing all kinds of delays which our friends in the export industry have complained to all of us about.

Now, in order to encourage the administration to do a better job and a quicker job of taking items off the list that should no longer be on it, we have included this provision urging and authorizing the Secretary to set up a system of doing this in an orderly fashion.

Let me point out that in the provisions of the paragraph that we are talking about, if any goods or technology are proposed to be removed from the list pursuant to that system, any of the interested departments, including the Defense Department, can object. That takes the automaticity out of the process. That is in the second paragraph of subsection (g). There is no danger of anything happening automatically that the Defense Department disapproves of. They will have their opportunity. It just will encourage a better and more efficient system of taking items off the list that should no longer be on the list.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would ask the distinguished gentleman from New York if the gentleman took testimony from the technologists as to how accurately they could predict the level of technology? This is my concern. Here we are going to try to predict the level say of computer technology in 1982.

Now, you have got to not only predict the level of our own technology, you have to predict the level of the adversaries, what the level of technology of the adversaries is going to be and what the technology of our allies will be.

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The gentleman has brought up availability. How accurate can you be? That is my concern.

Mr. BINGHAM. Mr. Chairman, the testimony we had on this from industry in particular was that we can do it. We are proposing a similar system in COMCOM. It is being discussed in COMCOM currently.

Again I say, if DOD thinks it is going too fast or something is going to be taken off that should not be taken off, DOD can object to it.

Mr. ICHORD. But DOD cannot stop it if they object to it. That is the question that I would ask the gentleman.

Mr. BINGHAM. Sure. The gentleman knows DOD has not been overridden by the Secretary of Commerce on any of these national security items.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I have basically a couple inquiries.

First, I think the gentleman said that this does not mandate the Secretary to do anything at all. My reading on line 17 says, "the latest such increase shall be removed from the list."

That seems to be mandatory. The word "shall" seems to be mandatory.

Second, I would give the gentleman a chance to respond to both these inquiries; in that same area, starting on line 15 it reads:

Any such goods or technology which no longer meet the performance levels established by the latest such inquiries.

My problem there is that the latest such inquiries could very well be an increase in the technology solely within the United States of America. I think in order to protect, in order to give substance to the balance of the particular bill, particularly to the Ichord amendment, we have to make sure that we are not giving or not selling technology which may not be the latest here, but nevertheless, which may be two or three generations ahead of foreign technology, Soviet technology, if you will. If the gentleman would respond to those two inquiries.

Mr. BINGHAM. Mr. Chairman, I certainly would agree with the gentleman that what is obsolete here is not necessarily obsolete in the Soviet Union. Certainly the gentleman is correct about that.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. Mr. Chairman, the answer to the first question the gentleman raises, about the word "shall" in line 17, is that that it refers to a system or set of regulations which the Secretary, under the first sentence of subsection (g), is authorized to establish. In other words, if the Secretary sets up this kind of a system, which we in the committee would hope that she would be able to do, then the removal of

items in accordance with that system would occur, unless another Government agency objected.

Mr. COURTER. Mr. Chairman, my point, I believe, if the gentleman will yield further, is the fact that it will inevitably go into effect. The restraints would have to, therefore, be lifted, and the word "shall" is mandatory, provided, as the gentleman says, something else does not happen. The chances are perhaps that something else will not happen. The word "shall" therefore makes it mandatory and we have a problem, particularly when U.S. technology is advanced two or three stages beyond some foreign country's technology.

Mr. BINGHAM. Mr. Chairman, again let me say, the "shall" applies only if the Secretary has, pursuant to this paragraph, established the kind of system we are talking about, and that part of it is discretionary.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. HECKLER asked and was given permission to revise and extend her remarks.)

Mrs. HECKLER. Mr. Chairman, I take this time to ask the distinguished chairman of the Subcommittee on International Economic Policy of the Committee on Foreign Affairs some questions because I want the legislative history and intent to be as clear as possible on this complex but important piece of legislation. And particularly this section of the bill.

Of course, I begin with the major premise which I believe every Member of this House accepts: that the national security, in a very literal sense, of our country, is the point of departure from which all of us operate. I certainly would not want to be a party to compromising our national security in any way, or in any manner, directly or indirectly. Nonetheless, within that context I would like to suggest that there is nothing of more import in economic terms—in transfer and exchange in the world today—than the computer. The computer is an important wave of the future; it travels at a breathtaking rate across all national and ideological barriers and boundaries. The technology of the computer can become obsolete, out of date, very, very quickly. That is what prompts my inquiry.

I wonder, Mr. Chairman, in view of the language of this particular section, what mechanism the gentleman and his committee colleagues considered when the requirements in the indexing provision in the section were adopted. They provide:

In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technologies subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for changes—

And so forth.

My question is: How will the needs of our national security be ascertained? I would like to know what mechanism will be used to determine what or which particular licenses are obsolete from the

point of view of national security? Did the gentleman have in mind relationship between those two?

Mr. BINGHAM. No; that would be up to the Secretary to determine and to propose such a system. I would not be qualified to do that myself. I doubt if many people here would be qualified to do that. It would be something that would be established pursuant to this authorization and, again, I would say in the operation of it, it would be subject to objection from the Department of Defense if that Department chose to object.

□ 1540

Mrs. HECKLER. Mr. Chairman, I want to be sure I understand: Your reply is that there would be consideration by and a determination from the Department of Defense as to whether or not national security interests were to be served?

Mr. BINGHAM. Absolutely.

Mrs. HECKLER. That is the Defense Department would decide if the technology had become obsolete from the point of view of national security; is that right?

Mr. BINGHAM. Of course, yes.

Mrs. HECKLER. So an operational precondition to the act of indexing as it could be implemented under this language would depend upon a judgment by the Secretary of Defense that the particular equipment had become obsolete and would not adversely affect our national security?

Mr. BINGHAM. That is correct.

Mr. ICHORD. Mr. Chairman, will the distinguished gentlewoman yield on that point?

Mrs. HECKLER. I am happy to yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I think the distinguished gentlewoman from Massachusetts (Mrs. HECKLER) has brought up a very crucial point and I want to direct the Members to the exception. We will recall that the gentleman from New Jersey talked about the mandatory language, "shall," in lines 16, 17, and 18. Now, let us look at the exception.

First, the approach of the committee was to mandate the indexing. Now they have brought in an exception approach, and it goes like this: " * * * unless, under such exceptions and under such procedures as the Secretary shall prescribe,"—meaning the Secretary of Commerce—"any other Government agency objects * * * that the goods or technology shall not be removed from the list."

That language gives the Secretary of Commerce the responsibility for determining whether this is critical military technology or not. That is my point. The person who should be doing this is the Secretary of Defense.

Now, they are all working in the interests of the United States of America, but the Secretary of Commerce dealt solely with trade. Let me point out again we are dealing here with export controls for the purpose of protecting the national security of the United States, and that should be the responsibility of the Secretary of Defense, not the Secretary of Commerce and not even the Secretary of

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State. The Secretary of State should be responsible for foreign policy control, the Secretary of Commerce should be responsible for trade controls, but the Secretary of Defense should be the one who is responsible for protecting the military security and the national security interests of the United States. My God, let us start pinpointing responsibilities. This is a responsibility of the Congress to pinpoint executive responsibility. I think the gentleman has brought up a very crucial point.

Mrs. HECKLER. Mr. Chairman, I would like to respond to my colleague the gentleman from Missouri.

The CHAIRMAN pro tempore (Mr. McKay). The time of the gentleman from Massachusetts (Mrs. HECKLER) has expired.

(On request of Mr. BINGHAM, and by unanimous consent, Mrs. HECKLER was allowed to proceed for 3 additional minutes.)

Mrs. HECKLER. Mr. Chairman, it would seem to me that the section is capable of different interpretations, which is why I asked for this clarification.

In my view, the legislation before us would make major and necessary policy and procedural changes in the current export control process, a process which has been called "draconian and inflexible" by U.S. exporters. At the same time, the legislation will certainly preserve vital U.S. national security and foreign policy interests. The net result of H.R. 4034 will hopefully be the enhancement of legitimate U.S. export trade.

I say "hopefully," Mr. Chairman, because the utility of the reforms included in this legislation will be to a great extent dependent upon subsequent actions taken by both the Department of Commerce and the Department of Defense.

For example, H.R. 4034 requires the Secretary of Commerce to develop foreign availability criteria by regulation. A determination of foreign availability is a critical aspect of this legislation because such a determination can trigger the removal of complicated and time-consuming U.S. export controls thereby insuring that U.S. exporters will be competitive with their foreign counterparts.

It is my hope that the Commerce Secretary will insure that these regulations are developed as quickly as possible, and that the criteria set forth in those regulations will not be so stringent that they will be impossible to meet.

It is also my hope that the Department of Commerce will proceed expeditiously to reduce the list of unilaterally controlled items, especially in the area of scientific, industrial, and medical instruments. This is especially troublesome to exporters in my district because of the widespread incorporation of microprocessors in this type of equipment.

Let me illustrate why I raise these two points by one example. The Foxboro Co., which is located in my district, manufactures an infrared analyzer called the Foxboro-Wilks 801. This instrument is used in laboratories to measure the chemical composition of gas and other elements. The instrument contains an Intel 8080 microprocessor and, because

of this, it is subject to U.S. unilateral export control licensing procedures.

Siemens, a West German company, manufactures a multipurpose gas chromatograph which competes directly with the Foxboro infrared analyzer. The Siemens product also contains a microprocessor, but the Government of West Germany permits Siemens to ship this product throughout the world without any export licensing restrictions.

Typically, it takes Foxboro 4 to 6 weeks to obtain U.S. Department of Commerce approval to export its infrared analyzer because of U.S. licensing requirements. Siemens, on the other hand, can ship its product immediately because it is confronted with no export licensing requirements. In this highly competitive world, a delay of 4 to 6 weeks in a company's ability to deliver a product can mean the loss of the sale.

I should note that the microprocessor contained in the Foxboro infrared analyzer is a "dedicated" microprocessor. This means that it cannot be reprogrammed. It should also be noted that the value of the microprocessor represents only a minor portion of the value of the entire instrument.

Representatives from the Scientific Apparatus Makers Association, of which Foxboro is a member, recently met with officials in the Department of Commerce to discuss this problem, and I understand that the Department has begun to look into it. I hope that the Department will make rapid progress in resolving this type of situation. By eliminating these types of products which contain dedicated microprocessors from the U.S. unilateral control list, licensing officers in the Commerce Department and those who review these matters at the Defense Department will be free to turn their attention to more critical areas of legitimate national security concern.

I ask the chairman of the subcommittee of the Committee on Foreign Affairs as to whether or not in the very operation of the phrase, "national security," the determination of obsolescence would necessarily have to come from the Department of Defense, and I would again ask the chairman of the subcommittee as to whether or not he reads the section as requiring that approach in agreeing on other items of technology not within the immediate needs of national security or within the preferred list for commerce or commercial approach. I would ask the chairman to respond to that inquiry.

Mr. BINGHAM. Mr. Chairman, I can respond in this way: That the responsibility for setting up the system so that we will be sure that items that have become obsolete from the point of view of national security are at least looked at in terms of whether they should be taken off the list is provided. That is done so as to allow those concerned with licensing to focus on the important items, on the items that are important in national security.

That responsibility in the first sentence lies with the Secretary of Commerce to propose regulations to

accomplish that. If he or she does that and then items are proposed to be removed from the list in accordance with that section, the Secretary of Defense can, if he or she chooses, object to their removal from the list.

The advantage of this is that instead of leaving the situation exactly as it has been in the past, with items remaining for years on the list that should not be on the list, there is here a proposed system to make sure that the unimportant items are taken off. If we knock this out of the bill, we leave it just the way it has been, with an endless number of items being considered that should no longer be considered, simply because the bureaucrats have not enough time to get around to taking them off.

Mrs. HECKLER. Mr. Chairman, I thank the gentleman for his response.

I would say that in this area we have two interests, the first being the overriding one of national security and the second one that of being realistic in this ever evolving age of international exchange in which the computer is exchanged and copied by foreign governments and foreign organizations and foreign industries.

Just recently I have been informed that the People's Republic of China purchased over \$100 million worth of computer technology from a French firm. I think, that even as we meet the needs of our national security, it is very important as a matter of overall economic export policy and American business interests—out balance of payments and American jobs to allow American firms to complete and to promote their products. When national security matters are not at issue it is important that we in no way hobble or harm the business interests in our country who have a good product to sell abroad.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think the discussion that has just gone on indicates that there is some lack of clarity about the amendment and just exactly what it does.

The provision in the legislation, especially as compared to the original bill that was introduced, does leave some flexibility on when indexing may be instituted. However, once a category is agreed on for using indexing, it becomes mandatory that those items be dropped from the control list unless, under certain circumstances, another Government agency objects. Even that is not clear because the Secretary of Commerce still retains the authority to override any such objection. The provision goes on to say: If certain performance levels are reached, no matter what the Secretary determines might be the situation for an individual case, he would have to remove it.

Mr. Chairman, I do not suggest that if we should get into such a situation, the Secretary of Commerce, if he or she felt there would be a leak in our military critical technologies overseas, would go ahead with that.

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So one of three things is going to happen: First, either indexing will not be used at all, which is certainly going to come as a great shock and surprise to those supporting this kind of provision; or second, we will get trapped, which could be absolutely disastrous, and we will export some technology that we do not want to export; or third, the Secretary is going to violate the law.

I share the subcommittee chairman's concern about this problem, but I do support the amendment. I would say, however, that there might be a better way of doing this. I think there should be some formalized way of removing items from the list, and I think we should perhaps simply direct the Secretary to do so by regulation. But that choice is not before us at the present time, so I do rise in support of the amendment.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Chairman, I rise in opposition to the Ichord amendment and urge support of the present language regarding indexing in H.R. 4043. I feel that the present language makes an important first step in alleviating the competitive disadvantage under which many high technology industries have been trying to operate for many years. The indexing provision does not in any way jeopardize the national security of the United States; rather it allows for removal of needless redtape and control on exports which have been determined to have become "obsolete with respect to the national security of the United States."

First, let me emphasize that the bill language does not mandate the indexing of certain goods after the performance levels of such goods have risen; it permits this indexing. The Secretary of Commerce, whom we assume will be working in close coordination with the Secretary of Defense and Secretary of State, is allowed to periodically reevaluate requirements for validated licenses and qualified general licenses for high technology goods.

As Members of the House know, the concept of indexing high technology items has been agreed to by COCOM, the informal trade group of the United States, our NATO Allies—minus Iceland—and Japan. COCOM already provides for periodic review of performance parameters of goods. The indexing provision in this bill merely provides for a more orderly, comprehensive reassessment of overall product technology. If the United States, due to slow reevaluation of national security requirements, fails, to allow the exports of high technology goods which in no way jeopardize our security, then we are hurting our balance of trade and our competitive edge in a market area that is very important to our economy today and looks as though it will become more and more crucial in years to come. I might add that not only are we hurting our own balance of trade, we are actively helping other nations, such as France, Japan, and West Germany, who of course will not hesitate to step into any market

where there is a profit to be made. And I need not remind the distinguished gentleman from Missouri, or any of the Members of the House, of the disastrous negative situation our economy is in as the result of the horrible balance of payments situation we face.

Finally, I would like to address in some detail the incorrect notion that indexing of goods is incompatible with the national security of our Nation. The argument has been set forth that the phrase "obsolete with respect to the national security of the United States" is vague. I concur with this statement. The notion of a product becoming obsolete is purposely left vague so that the Secretary of Commerce, in coordination with the Secretary of Defense and Secretary of State, can analyze our defense needs. There is no question that a product may be outdated on the U.S. market, but might be anything but obsolete in terms of a Communist-bloc country. Only if the Secretary of Commerce, after very careful analysis, deems that a product may be sold to a potentially unfriendly country at no risk to the American security will it then be indexed for trade to those countries. Furthermore, as I stated earlier, the provision in this bill is merely permissive, not mandatory. The Secretary of Commerce does not have to index goods at all.

In summary, indexing will help give businesses the competitive edge in international trade that presently, in many cases, they lack. It will permit the sale abroad of high technology items which are becoming a more and more important part of our economy. At the same time, this provision is worded in such a way that indexing will only take place after a rigorous review of our own national security needs. For these reasons, I urge defeat of the amendment of the gentleman from Missouri, and the retention of the current bill language.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Ichord amendment.

Mr. Chairman, I will not take the usual 5 minutes, since I have already spoken on this particular amendment.

I think this is a very crucial amendment, because if it is not adopted, it basically, according to my reading of page 16, lines 8 through 23, would otherwise remove the effect and the thrust of the prior Ichord amendment which passed this House so overwhelmingly less than 45 minutes ago.

The thing about which I am most concerned is the language with regard to "the latest such increase," to the very latest technology. I think this particular bill, with the last Ichord amendment, intended to protect the United States from aiding and abetting unwillingly those enemies and those people who would make us their adversaries by making sure we do not sell military critical technology to other countries. That particular phraseology is particularly important.

The thrust of the first Ichord amendment had nothing to do with the latest technology, because, very truly, it does

not have to be the latest technology that would give critical military technology to those people who would oppose us in our foreign policy; it could be not the latest advance or the second-to-the-latest advance or the third-to-the-latest advance.

So, Mr. Chairman, I think, therefore, this particular paragraph must be removed in order to give free play and emphasis to the Ichord amendment that passed so overwhelmingly just a few moments ago.

□ 1550

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The question was taken; and the Chairman pro tempore announced that the yeas appeared to have it.

RECORDED VOTE

Mr. ICHORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 206, not voting 27, as follows:

[Roll No. 456]

AYES—201

Abdnor	Flippo	McClory
Addabbo	Fountain	McDonald
Andrews,	Fowler	McEwen
N. Dak.	Fuqua	McKay
Aroher	Gaydos	Marriott
Ashbrook	Gephardt	Martin
Atkinson	Gilman	Mathis
Badham	Ginn	Michel
Bafalis	Gonzalez	Miller, Ohio
Bailey	Goodling	Minish
Barnard	Gore	Mitchell, N.Y.
Bauman	Gramm	Mollohan
Beard, Tenn.	Grassley	Montgomery
Bennett	Grisham	Moore
Bereuter	Guarini	Moorhead,
Bethune	Gudger	Calif.
Bevill	Guyer	Mottl
Blaggi	Hagedorn	Murtha
Boner	Hall, Tex.	Myers, Ind.
Bouquard	Hammer-	Nichols
Bowen	schmidt	Pashayan
Breaux	Hance	Paul
Brinkley	Hansen	Pickle
Brooks	Harsha	Quayle
Broomfield	Hefner	Quillen
Brown, Ohio	Heftel	Rahall
Broyhill	Hightower	Regula
Burgener	Hillis	Rhodes
Butler	Hinson	Rinaldo
Byron	Holland	Roberts
Campbell	Holt	Robinson
Carney	Hopkins	Ross
Chappell	Hubbard	Roth
Clausen	Hutto	Rousselot
Cleveland	Hyde	Royer
Coleman	Ichord	Rudd
Collins, Tex.	Ireland	Runnels
Coughlin	Jeffries	Santini
Courter	Jenkins	Satterfield
Crane, Daniel	Jones, N.C.	Sawyer
Crane, Philip	Jones, Tenn.	Schroeder
Daniel, Dan	Kazen	Schulze
Daniel, R. W.	Kelly	Sebellus
Davis, Mich.	Kemp	Sensenbrenner
Davis, S.C.	Kindness	Shelby
de la Garza	Kramer	Shumway
Devine	LaFalce	Shuster
Dickinson	Lagomarsino	Skelton
Dornan	Latta	Slack
Dougherty	Leach, La.	Smith, Nebr.
Duncan, Oreg.	Leath, Tex.	Snyder
Duncan, Tenn.	Lee	Solomon
Edwards, Ala.	Lent	Spence
Edwards, Okla.	Levitas	Staggers
Emery	Lewis	Stangeland
English	Livingston	Stenholm
Ertel	Loeffler	Stratton
Evans, Del.	Long, Md.	Symms
Evans, Ga.	Lott	Taylor
Ferraro	Lujan	Thomas
Fish	Lungrin	Treen

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Trible
Volkmer
Walker
Wampler
Watkins
White
Whitehurst

Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.

Winn
Wolff
Wylder
Wyllie
Yatron
Young, Fla.
Zerferetti

NOES—206

Akaka
Albosta
Alexander
Ambro
Anderson,
Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Baldus
Barnes
Bedell
Bellenson
Benjamin
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Brademas
Broadhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
D'Amours
Danielson
Dannemeyer
Daschle
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Evans, Ind.
Fary
Fasell
Fazio
Fenwick
Findley
Fisher
Fithian

Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frost
Garcia
Gibbons
Glickman
Gradison
Gray
Green
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Natcher
Neal

Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Pritchard
Pursell
Raisback
Rangel
Ratchford
Reuss
Richmond
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Russo
Scheuer
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Snowe
Solarez
Spellman
St Germain
Stack
Stanton
Stark
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolpe
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—27

Anderson, Ill.
Applegate
Beard, R.I.
Bonior
Carter
Cheney
Chisholm
Derwinski
Diggs

Dodd
Flood
Gialmo
Gingrich
Goldwater
Lederer
McCormack
Madigan
Mitchell, Md.

Murphy, Ill.
Price
Roybal
Sabo
Steed
Stump
Vander Jagt
Wyatt
Young, Alaska

□ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Carter for, with Mr. Murphy of Illinois against.

Mr. Cheney for, with Mr. Lederer against.

Mr. Young of Alaska for, with Mr. Beard of Rhode Island against.

Mr. Gingrich for, with Mr. Mitchell of Maryland against.

Mr. Goldwater for, with Mrs. Chisholm against.

Mr. LONG of Maryland and Mr. VOLKMER changed their votes from "no" to "aye."

Mr. ALEXANDER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to section 104?

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio. Page 8, add the following after line 24:

"(3) In issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

□ 1610

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Chairman, to successfully implement the critical technologies approach endorsed by this bill it is imperative that we correct an existing weakness in the current system. One such loophole concerns so-called end-use statements and safeguards to prevent the diversion of technology for military purposes once it has been transferred to a controlled nation like the Soviet Union.

It is often current practice to require nations receiving American technology to sign an end-use statement agreeing that the transfer of goods or technology will not be diverted for military uses. The problem with end-use statements and so-called safeguards is that they are only cosmetic in nature and do not work. As the Senator from the State of Washington recently stated on the floor of the other body, they provide no protection against diversion of critical technologies and goods since, by definition, they consist of know-how or products which transfer know-how for which safeguards against diversion cannot be devised. The diversion of know-how cannot ordinarily be detected or prevented since it consists of the transfer of knowledge from one person to another. Once the transfer of such critical know-how occurs, it is lost forever.

Let me set up a hypothetical situation to illustrate the need for this amendment. Let us assume there is a man whom you know to be a potential adversary, and this person is holding a baseball in one hand and a grenade in the other. Would you teach this potential adversary how to throw the baseball; in other words, give him the know-how, and then

pray to God that he will not use this know-how to throw the grenade? I hope not. But that is exactly what this country is doing; a promise not to throw the grenade is not enough. In dealing with governments like the Soviet Union, we must assume that if the technology to be exported can be diverted for military uses that it will be diverted for military uses. And as a result, a license application should not be approved on the basis "end-use statements" and "safeguards."

In light of the Kama River truck plant incident, it would be totally naive for the United States to think that safeguards are an effective mechanism in preventing diversion. If the Soviets want to divert the technology for direct military purposes, they will do so, like they have done with the military truck engines coming out of the Kama River.

This amendment provides that rules and regulations for the control of critical technologies and goods reflect the difficulties associated with end-use statements and safeguards. The amendment also requires that effective measures be taken to prevent the re-export of critical goods and technologies to potential adversary nations when we export them to friendly nations, which include most Third World countries as well as our allies in COCOM.

An amendment such as this was passed in the other body by unanimous consent, and met with the approval of the Commerce Department official monitoring the bill's debate on July 21 of this year.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding and I rise in support of the amendment.

Let me take this opportunity of thanking the gentleman for all of the work he has put in in tightening up this bill and making it a very meaningful bill.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I would like to also commend the gentleman for all of his efforts on behalf of this bill and trying to improve it. I would like to support the amendment as well. I think it merely makes explicit what has been apparent from hearings on export controls, and that is, as the gentleman has already pointed out, safeguards cannot be devised to prevent the diversion of technology if someone is really determined to get that technology.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent Mr. MILLER of Ohio was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield further?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. LAGOMARSINO. The gentleman's

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amendment, of course, provides that rules and regulations be developed in such a way as to prevent reliance on ineffective safeguards as a means of countering diversion of technology. I think it is something that needs to be in the bill. As the gentleman points out, the other body included very similar language in its version of this bill, and I hope it is adopted.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I want to commend the gentleman in the well, the gentleman from Ohio, for offering this amendment. I know the gentleman from Ohio, along with the gentleman from New York (Mr. WOLFF), have worked long and hard in this area. I would hope that the gentleman from New York (Mr. BINGHAM) would accept the amendment of the gentleman from Ohio.

This amendment, I would point out, might well get rid of the can of worms, the so-called shambles the Director testified about before the House Armed Services Committee.

But we are going to have this problem if we do not do something about it. We are going to have it with us for years to come. I would cite for the Members of the House the Kama River project. I know that the gentleman from Ohio is familiar with the Kama River project.

I think it is absolutely reprehensible when NATO is so short, extremely short of 5-ton trucks that we not only export trucks, we export a whole turnkey factory to the Soviet Union at Kama River, the largest truck plant in the world, and which has definitely produced trucks that go into the Soviet military.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has again expired.

(At the request of Mr. ICHORD and by unanimous consent Mr. MILLER of Ohio was allowed to proceed for 3 additional minutes.)

Mr. ICHORD. If the gentleman will continue to yield, it has been proven beyond a doubt that that truck plant, the Kama River truck plant has been diverted to military uses.

Now, what can we do? It is true that there were no end-use restrictions placed upon the Kama River turnkey plant. That was the problem. No end-use restriction. But certainly somebody should have been thinking about end-use restrictions if we are going to transfer a whole turnkey factory. Again, on top of that, someone should be thinking about how we are going to enforce these end-use restrictions. Are we going to deny them support? This is what the bureaucracy should be directing their attention to, and this is what the amendment of the gentleman from Ohio calls for. I hope that the manager of the bill will accept the amendment in order to get rid of the shambles that we now have in the administration of the Export Administration Act.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes, I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I also want to commend the gentleman in the well. I know we have worked together with two distinguished members of the majority for over a year on this reexport problem. The whole nightmare situation in Europe of these critical materials leaking like a sieve behind the Iron Curtain cannot be overemphasized.

When I first met with COCOM members in Europe 2½ years ago they explained to me that people will find statements under the COCOM agreements that a third nation will not have access to materials that are stacked up in warehouses, digital computing equipment, sensitive transistorized backup hardware and software.

□ 1620

Then, they go back a month later and half the warehouses are empty. "Sixty Minutes," the Nation's No. 1 rated show, which is always in the top five—it says something about the viewing habits of the American people that this hard-hitting factual show outdraws all the situation comedies and adventure shows—"Sixty Minutes" wanted to do a long segment on the export control problem, and found out that it is just too difficult to film. All they have is people describing how bad the problem is, or they can film a full warehouse and come back a few months later and show the same warehouse empty.

In spite of the television difficulties of filming this, we in Congress should certainly be aware of what Mike Wallace and his producer, Barry Lando, are aware of, and should support the gentleman's amendment. I would hope that the distinguished chairman, the gentleman from New York (Mr. BINGHAM) would accept this amendment in its totality.

Mr. MILLER of Ohio. I thank the gentleman from California.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

I do so with some reluctance, because I know of the great deal of work that the gentleman from Ohio has given to this topic. The committee and the administration both are opposed to this amendment because, in essence, it appears to be an amendment that is against safeguards. I ask the question: How can you be against safeguards?

We are not suggesting, nobody suggests, that these safeguards are absolute or that they will totally prevent the diversion of items to an unintended use. But as the gentleman from Missouri (Mr. ICHORD) has just pointed out, the Kama River deal has been criticized, and maybe rightly, by many of these same people because no end use requirements were incorporated in the deal. When President Nixon and Secretary Kissinger decided to go ahead with the exports to the Kama River plant, they deliberately did not put in any provisions to prevent the diversion of the products of that plant.

So, what we are talking about here is safeguards in the sense of an effort to deter the misuse of the products that we export to the Soviet Union and to other Communist countries. As I say, there is no way in which safeguards can absolutely prevent diversions, but they are a useful device to assist in the process

of reducing the degree to which diversions occur. In fact, if this amendment is adopted, it might very well discourage the administration from using safeguards or end use requirements, and that is certainly not the intention, I am sure, of the author of the amendment. But, that might be the result.

One of the areas where end use safeguards are used, and used effectively, is in the utilization of computers, where the agreements provide that the vendors of the computers have access, recurrent or constant access, to the operation of the computers to see that they are used for the purposes for which they are sold. So, safeguards are a necessary and beneficial part of the total process of trying to see that we have exports to the Soviet Union that are beneficial to our industry, but that do not assist the military potential of the Soviet Union.

This amendment does not prohibit them, but the whole effect of the amendment is negative. It would discourage the use of safeguards, and I urge a negative vote on the amendment.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield.

Mr. BONKER. As it relates to the Kama River case and the statement on the question of other safeguards, we have access to the computer there, the results of which gave us access to the facility.

Mr. BINGHAM. That is correct, yes.

Mr. COURTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding. In reply to the chairman's remarks concerning safeguards and end-use statements, I would like to state that the amendment will not stop the end-use statements or safeguards. The amendment wants the Commerce Department not to rely on a tag that will be hanging on an article that says, "We will sell you this article if you sign this tag stating that you will not use it for military uses, and use it back against us."

We do not want someone relying on a statement, because if it can be used for military use, and it goes to controlled nations, they will use it for military use. We are conveying the message that, in issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting a critical technology to military use.

We are giving a warning. We certainly need this section, and safeguards and end-use statements can certainly be used, but through the legislative process—we want the administration to know that end-use statements are not the items that we should rely on completely in order to turn over our technology to some other nation that could, in time, use it back against us.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I

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thank the gentleman for yielding. Does the gentleman know of any case in which a license was granted in which safeguards were included, and it then turned out that the safeguards were useless and the material was misused or diverted? Does the gentleman know of any such case, bearing in mind that in the Kama River case the majority of the exportation contained no end-use restrictions?

Mr. MILLER of Ohio. In the Kama River case there is still a dispute as to whether there was an end-use certificate as such, or understanding of an end-use certificate. I would ask the gentleman, whenever we have sent articles on the basis of end-use would the gentleman assure the committee that not one item has been diverted?

All we want to do is to have our administration be alert and aware that this is not the solution to solving our problem of transferring our technology.

We do not just want an end-use statement signed, and then say, "Yes, you can have it; there it is."

There is no assurance whatsoever once it arrives, that it will not be turned over for military use.

Mr. BINGHAM. Will the gentleman yield briefly further?

Mr. COURTER. I will be happy to yield to the gentleman from New York.

Mr. BINGHAM. As far as Kama River is concerned, I have read all those documents in the testimony. All I can say is that if there was an intention to provide end-use restrictions, they did a hell of a bad job. As the gentleman from Missouri just stated, there really were no end-use restrictions. The best they could come up with was some vague understanding. There was not anything in the documents to show that there were end-use restrictions.

But, I agree with the gentleman that safeguards are not absolute. My purpose in opposing this amendment is that the amendment will discourage the use of safeguards, and that seems to be cutting off the nose to spite the face.

Mr. MILLER of Ohio. That is the main purpose of the amendment, to attempt to show the administration that the safeguards are not there when an end-use statement is signed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and on a division (demanded by Mr. MILLER of Ohio) there were—ayes 20, noes 24.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

A quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1640

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 138, not voting 25, as follows:

[Roll No. 457]

AYES—271

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Blaggi
Boland
Bonar
Bonquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Chappell
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Devine
Dickinson
Dicks
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl

Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Findley
Fish
Fitchian
Florio
Fountain
Fowler
Frost
Fuqua
Gaydos
Gialmo
Gilman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hance
Hanley
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.

Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McClary
McCloskey
McDade
McDonald
McEwen
McKay
Madigan
Markay
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Panetta
Pashayan
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pursell
Quayle
Quillen
Rahall
Rallsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royce

Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebellius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence

Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Treen
Trible
Ullman
Van Deerlin
Vander Jagt
Walgren
Walker

Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Winn
Wolf
Wyatt
Wylder
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOES—138

Alexander
Ambro
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnard
Barnes
Bedell
Bellenson
Bevill
Bingham
Blanchard
Boggs
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conable
Conyers
Corman
Danielson
Dellums
Derrick
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.

Fary
Fascell
Fazio
Fenwick
Fisher
Filippo
Ford, Tenn.
Forsythe
Frenzel
Garcia
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gray
Green
Hall, Ohio
Hamilton
Harkin
Harris
Holtzman
Jacobs
Jeffords
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Lehman
Leland
Long, La.
Lowry
Lundine
McHugh
McKinney
Maguire
Matsui
Mavroules
Mikulski
Mikva
Miller, Calif.
Mineta
Moakley
Moffett
Moorhead, Pa.

Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Nedzi
Nolan
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pritchard
Rangel
Ratchford
Reuss
Richmond
Rodino
Rosenthal
Scheuer
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Stark
Stewart
Stokes
Studds
Swift
Thompson
Udall
Vanik
Vento
Volkmmer
Waxman
Weiss
Williams, Ohio
Wirth
Wolpe
Wright
Zablocki

NOT VOTING—25

Anderson, Ill.
Applegate
Beard, R.I.
Carter
Cheney
Cotter
Derwinski
Diggs
Flood

Foley
Ford, Mich.
Gingrich
Holland
Lederer
McCormack
Minish
Mitchell, Md.
Price

Roybal
Sabo
Stump
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Young, Alaska

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Bob Wilson for, with Mr. Lederer against.

Mr. Derwinski for, with Mr. Beard of Rhode Island against.

Mr. Carter for, with Mr. Mitchell of Maryland against.

Messrs. BUTLER, PREYER, D'AMOURS, PEPPER, and WEAVER changed their vote from "no" to "aye."

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Ms. HOLTZMAN changed her vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above reported.

□ 1700

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise at this point in the bill to inquire of the chairman whether my understanding is correct that the imposition of constraints and criteria upon the use of export controls for foreign policy purposes would not, and is not intended by the committee, in any way to tie the hands of the President in time of crisis.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the gentleman is correct. H.R. 4034 would not prevent the President from imposing export controls quickly in response to unpredictable foreign policy crises, such as attempts to develop a nuclear weapons capability, support for international terrorism, extreme violations of human rights, or imminent threats of regional military conflict. Nor would it prevent continuation of such controls once imposed. On the contrary, it encourages the President to make decisions on export licenses without excessive delay. Pursuant to section 112, H.R. 4034 would not limit authority to control items of significance for nuclear explosive purposes. For such items the special procedures called for by section 309(c) of the Nuclear Non-Proliferation Act of 1978 would apply. With respect to other items:

(1) the criteria listed in section 6(b) and referred to in section 6(e) (2) are factors to be considered but are not conditions which must be met—in any given situation, one, several, or all of them might be irrelevant;

(2) consultation with industry called for by section 6(c) and referred to in section 6(e) (3) might not be appropriate in some circumstances;

(3) reasonable efforts to achieve the purposes of controls through alternative means, as called for by section 6(d) and referred to in section 6(e) (4), need not delay the imposition of controls in a crisis. Under urgent circumstances there may be few, if any, feasible alternative means to pursue.

(4) the President would have discretion to determine what steps were feasible to secure the cooperation of other governments per section 6(h).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman from New York (Mr. BINGHAM) and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 22, insert the following after line 2:

"(1) SUBMISSION OF RECORDS TO CONGRESS.—(1) In any case in which any committee or subcommittee of either House of Congress which has jurisdiction over domestic or for-

eign policies relating to export trade or national security requests the Secretary, the Secretary of Defense, or any Federal department or agency, to submit a record with respect to any action taken under this Act concerning the administration of export controls for national security purposes, the Secretary, Secretary of Defense, or Federal department or agency, as the case may be, shall so submit such record within ten days after the request is made.

"(2) In order to comply with any request described in paragraph (1), the Secretary, Secretary of Defense, or any other Federal department or agency participating in any action taken pursuant to this Act (including the approval or disapproval of a validated license application) concerning the administration of export controls for national security purposes, shall retain, for at least five years after the action is completed, a complete record with respect to such participation, including the following, as appropriate:

"(A) With respect to a technology or good involved in the action—

"(i) the technical facts upon which the action was based, including (but not limited to) the nature and strategic importance of the technology or good, and the analysis of such facts,

"(ii) the extent of the technological lead of the United States,

"(iii) foreign availability of such technology or good, and

"(iv) the safeguards against the transfer of the technology involved to a controlled country.

"(B) Material factual and policy issues.

"(C) Each department or agency which participated in the action and the recommendations of such department or agency with respect to the action.

"(D) Such other information as is necessary and appropriate to an understanding of the action.

"(3) For purposes of this subsection, the term 'controlled country' means any communist country as defined in section 620(f) of the Foreign Assistance Act of 1961."

Mr. DORNAN. Mr. Chairman, I want to applaud the efforts of the distinguished gentleman from New York (Mr. BINGHAM) for including a section in H.R. 4034 requiring the keeping of records pertaining to applications for export licenses. This legislative proposal is excellent so far as it goes; but in all respect I do not think it goes far enough.

The language of H.R. 4034 pertains only to license applications. What are more important, from the standpoint of general policy, are the professional and administrative decisions as to how and why certain goods and technologies are controlled under this act. My amendment provides for a complete set of records, specifying the technical, strategic, and foreign policy considerations which entered into the granting or denial of licenses. My amendment mandates the maintenance of those records for at least 5 years, and also provides for relevant congressional committee acquisition of those records with in a period of 10 days of a committee request.

The object of my amendment is to simply strengthen the quality of congressional oversight over the entire export license application and control system. Congress must exercise this oversight over the operation of agency rules and regulations in order to determine if those rules comply with original congressional intent. I am sure there would

be much less confusion within the executive branch if the Congress were to specify what it considers important in the license application process.

Even more important is our own ability to monitor the performance of the executive agencies and departments which participate in the licensing process. On May 15, 1979, the House Subcommittee on Research and Development of the Armed Services Committee, chaired by the distinguished gentleman from Missouri (Mr. ICHORD), opened a series of hearings on our export control policies. I sat in on many of them. After 2½ weeks of hearings, Congressman ICHORD discovered disturbing evidence of administrative confusion, if not downright deception and/or incompetence, within the administration on the issue of export licenses and control. According to a recently published statement by my distinguished colleague, there were attempts to control witnesses before the subcommittee; witnesses gave conflicting testimony; witnesses changed statements between appearances; and, most shocking of all, one witness stated he had been instructed to make sure his testimony would not conflict with that of his superiors, an instruction that he clearly translated, again to use the chairman's language, as a "veiled threat to his job." I agree with the gentleman from Missouri that the condition of information—possibly the condition of truth—in the executive branch is in an amorphous, incoherent, and confused state—a "typical bureaucratic maze."

When calling upon the executive branch, whether it is the Department of Commerce or the Department of Defense or any other agency of the Federal Government, the Congress cannot afford to waste time taking testimony or in analyzing confusion over matters of fact and postmistake rationalizations of export control policy. From the standpoint of hindsight, it would have been much better for all concerned if Congress had had access to a complete set of records on the Cyber 76 case in 1977, the sale of the Centalign B ball-bearing machines in 1972, or the records pertaining to the licensing of American firms who provided as much as \$1.5 billion in construction technology to the Soviet Union's massive Kama River truck plant, now the largest truck facility in the world. Today the Defense Department reports trucks from this plant are regularly seen with Communist military units throughout Eastern Europe.

This amendment will help clear up administrative confusion, clarify what is expected in the assembling and maintenance of adequate and complete records, and foster a consistency of approach within the executive branch of the Government in regard to these decisions. It is only in this way that Members of Congress and responsible officials within the executive branch can ascertain whether or not a particular action on an export license is justified by the facts, and is consistent with the legislative intentions of the Congress.

Mr. Chairman, I ask for adoption of the amendment.

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□ 1710

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. DORNAN was allowed to proceed for 3 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the distinguished gentleman from California mentioned my name and the hearings the Armed Service Committee conducted on H.R. 3216 and the problems that we encountered in obtaining information, particularly from the Department of Commerce.

The gentleman is correct.

I was concerned. I do not know who exactly is to blame. I thought the attempts to muzzle the witnesses was really very silly and hurt the cause, their own cause, rather than helped it.

The gentleman is correct. One witness, Dr. Ruth Davis, did have her testimony censored, in which she was to give what was thought to be opinion testimony in regard to possible diversions of this dual technology that had been transferred to our potential adversaries.

I have not had the opportunity to read the amendment offered by the gentleman from California. I think that I do agree with the objectives, but I do raise the question: Is the gentleman sure that he is not going to impose too much recordkeeping responsibilities upon the agencies?

Mr. DORNAN. That is a good objection. I anticipated this as one of the serious objections to this amendment, because most of us in this Chamber are properly upset about the bureaucratic maze that has inundated our Nation—1 million forms a week saying there is nothing to report.

However, as the gentleman has emphasized over and over, if ever there was an area that needed proper, careful analytical reporting, it is this area of technology transfer. In the amendment, if I might say, I have asked that the gentleman's staff take a look at it, the staff of the gentleman from New York (Mr. WOLFF) and the gentleman from Ohio (Mr. MILLER), and I think it has been very fair and cost-accounting conscious in the number of reports that it does require. I think it just backs up what the gentleman's other amendments have done in making this an area of serious concern to both the Commerce Department, the Defense Department, this Congress and the executive branch, so that we all play a role in what goes over to people who might use it against us in, God forbid, another major conflict.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that the gentleman from California did not have the opportunity to let us consider this amendment in advance. It has just reached my desk here. It raises a number of questions along the lines raised

by the gentleman from Missouri. There are thousands and thousands of export applications that are filed every year. If these detailed requirements are applicable to those, we are going to have to appropriate more funds for the department to cope with the flood of paper.

I could appreciate the gentleman's concern with wanting this information with respect to the Kama River truck project, but that is 1 in 10,000 in terms of its importance, in terms of its significance. There are 80,000 applications for licenses submitted to the Department every year, and I think this is just going to bury them in a flood of paper. I doubt very much that the Congress is going to make use of it or any substantial portion of it.

We have added to the bill provisions which make clear that none of the provisions of confidentiality which we will be discussing later, and which have always been in the act, prevent the submission of all necessary information to congressional committees. I might just read that provision:

Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction.

So there is no question that Congress has access to the information. The only question is whether there is need for this type of detailed information to be kept on all of the many thousands of applications.

In terms of governmental economy and trying to eliminate the spread of the bureaucracy, in the form in which it has been submitted to us I am constrained to oppose the amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I have some concerns about this amendment, as well.

What we are trying to achieve with export controls is a question of balancing controls on the one hand and our interest in promoting exports. I am concerned that this amendment might go too far the other way. It could deter exports to such an extent that our national interest could be harmed—and I am sure this is not what the gentleman intends and maybe it would not be the way it would work out—just because DOD would not want to become involved with all of the paperwork.

So there is the possibility, at least in some cases, that it would not exercise its option to review licenses for national security purposes. I hope that would not happen, but it is certainly a possibility.

My amendment in committee provided for complete access to records by Congress, so that need is already taken care of.

I am concerned that this amendment might be counterproductive. I am convinced, even though I have only served on this subcommittee for a short period of time, that we are going to continue to hold very extensive oversight hearings and, should it come to our attention that the records are not being kept adequately or that proper information is not being provided for, we certainly can come back to the floor and ask that the law be changed to require it.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, in our analysis of this amendment we were very careful to make sure that it was so specific that it would deal with less than 1 percent of total U.S. trade. What this amendment specifies, on the types of records to be maintained, is only the technical facts upon which a license application was denied, the extent of the technological need of the United States on this particular item, the foreign availability of the technology, the safeguards of the technology to a controlled country, and any other information appropriate to an understanding of license application decisions.

The distinguished chairman said that he doubted that Congress would use this information. I know I personally would use it, because I have made this an area of expertise in my office for 2 years and 8 months.

I have talked with many staffers on both the Committee on Foreign Affairs and the Defense Committee, who would absolutely use this, and, in talking to many Defense people, honestly, I say to my distinguished colleague, I have not had one Department of Defense person say that they would not be eager to keep records in this way and to keep us informed, because they feel they have been overridden by the State Department. And I say that this happened under a Republican administration several times, particularly with computers.

So I would hope that the gentleman would consider supporting this, and I am sure that it will be discussed in conference committee. I have already talked to the chairman who will be on this committee, and he said that all of this will be hammered out in the conference committee.

Mr. LAGOMARSINO. I thank the gentleman for his remarks.

□ 1720

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and on a division (demanded by Mr. DORNAN) there were—ayes 14, noes 16.

RECORDED VOTE

Mr. DORNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 109, noes 296, not voting 29, as follows:

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[Roll No. 458]

AYES—109

Abdnor	Evans, Del.	Gilman
Archer	Goldwater	Moorhead,
Ashbrook	Grisham	Calif.
Atkinson	Guyer	Mottl
Badham	Hammer-	Nichols
Bafalis	schmidt	Oakar
Bailey	Hansen	Pashayan
Bauman	Harsha	Quayle
Beard, Tenn.	Holland	Quillen
Bennett	Holt	Robinson
Bereuter	Hyde	Rousselot
Bethune	Ichord	Rudd
Bowen	Ireland	Runnels
Breadx	Jeffries	Santini
Broomfield	Jenkins	Satterfield
Broyhill	Kazen	Sawyer
Burgener	Kelly	Schulze
Butler	Kemp	Shumway
Chappell	Kindness	Shuster
Clausen	Kramer	Snyder
Cleveland	Latta	Solomon
Coleman	Lent	Spence
Collins, Tex.	Levitas	Stangeland
Conyers	Lewis	Stratton
Courter	Long, Md.	Synms
Crane, Daniel	Lott	Taylor
Crane, Philip	Lujan	Trible
Daniel, Dan	Lungren	Vander Jagt
Daniel, R. W.	McDonald	Wampler
Dannemeyer	Madigan	White
Davis, Mich.	Mariott	Whitehurst
Deckard	Martin	Williams, Ohio
Devine	Mathis	Winn
Dickinson	Michel	Wydlar
Dornan	Miller, Ohio	Wyllie
Duncan, Tenn.	Mitchell, N.Y.	Yatron
Erdahl	Montgomery	Young, Fla.

NOES—296

Addabbo	Davis, S.C.	Gudger
Alaska	de la Garza	Hagedorn
Albosta	Dellums	Hall, Ohio
Alexander	Derrick	Hall, Tex.
Ambro	Dicks	Hamilton
Anderson,	Dingell	Hance
Calif.	Dixon	Hanley
Andrews, N.C.	Dodd	Harkin
Andrews,	Donnelly	Harris
N. Dak.	Dougherty	Hawkins
Annunzio	Dowd	Heckler
Anthony	Drinan	Hefner
Ashley	Duncan, Ore.	Heftel
Aspin	Early	Hightower
AuCoin	Eckhardt	Illig
Baldus	Edgar	Hollenback
Barnard	Edwards, Ala.	Holtzman
Barnes	Edwards, Calif.	Hopkins
BeCell	Edwards, Okla.	Horton
Bellenson	Emery	Howard
Benjamin	English	Hubbard
Bevill	Erlenborn	Huckaby
Blaggi	Ertel	Hughes
Bingham	Evans, Ga.	Eutto
Blanchard	Evans, Ind.	Jacobs
Boggs	Fory	Jeffords
Boland	Fascell	Jenrette
Bolling	Fazio	Johnson, Calif.
Boner	Fenwick	Johnson, Colo.
Bonior	Ferraro	Jones, N.C.
Bonker	Findley	Jones, Okla.
Bouquard	Fish	Jones, Tenn.
Brademas	Fisher	Kastenmeier
Brinkley	Fithian	Kildee
Brodhead	Flippo	Kogovsek
Brock	Florio	Kortmeyer
Brown, Calif.	Foley	LaFalce
Brown, Ohio	Ford, Mich.	Lagomarsino
Buchanan	Ford, Tenn.	Leach, Iowa
Burlison	Fountain	Leach, La.
Burton, John	Fowler	Leath, Tex.
Burton, Phillip	Frenzel	Lee
Byron	Frost	Lehman
Carney	Fuqua	Leland
Carr	Garcia	Livingston
Cavanaugh	Gaydos	Lloyd
Chisholm	Gephardt	Loeffler
Clay	Glatco	Long, La.
Clinger	Ginn	Lowry
Coelho	Glickman	Lukens
Collins, Ill.	Gonzalez	Lundine
Conable	Goodling	McClory
Conte	Gore	McCloskey
Corcoran	Gradison	McDade
Corman	Gramm	McEwen
Coughlin	Grassley	McHugh
D'Amours	Gray	McKay
Danielson	Green	McKinney
Daschle	Guarini	Maguire

Markey	Pickle	Stanton
Marks	Preyer	Stark
Marlenee	Pritchard	Steed
Matsui	Pursell	Stenholm
Mattox	Rahall	Stewart
Mavroules	Railsback	Stockman
Mazzoli	Rangel	Stokes
Mica	Ratchford	Studds
Mikulski	Regula	Swift
Miller, Calif.	Reuss	Synar
Mineta	Rhodes	Tauke
Moakley	Richmond	Thomas
Moffett	Rinaldo	Thompson
Mollohan	Ritter	Traxler
Moore	Roberts	Treen
Moorhead, Pa.	Rodino	Udall
Murphy, Ill.	Roe	Ullman
Murphy, N.Y.	Rosenthal	Van Deerin
Murphy, Pa.	Rostenkowski	Vanik
Murtha	Roth	Vento
Myers, Ind.	Royer	Volkmer
Myers, Pa.	Russo	Walgren
Natcher	Schauer	Walker
Neal	Schroeder	Watkins
Nedzi	Sebelius	Weaver
Nelson	Selberling	Weiss
Nolan	Sensenbrenner	Whitley
Nowak	Shannon	Whittaker
O'Brien	Sharp	Whitten
Oberstar	Shelby	Williams, Mont.
Obey	Simon	Wilson, Bob
Ottinger	Skelton	Wirth
Panetta	Slack	Wolpe
Patten	Smith, Iowa	Wright
Patterson	Smith, Nebr.	Wyatt
Paul	Snowe	Yates
Pease	Solarz	Young, Mo.
Pepper	Spellman	Zablocki
Perkins	St Germain	Zerfetti
Petri	Stack	
Peyser	Staggers	

NOT VOTING—29

Anderson, Ill.	Forsythe	Rose
Applegate	Gibbons	Roybal
Beard, R.I.	Gingrich	Sabo
Campbell	Hinson	Stump
Carter	Lederer	Waxman
Cheney	McCormack	Wilson, C. H.
Cotter	Mikva	Wilson, Tex.
Derwinski	Minish	Wolf
Diggs	Mitchell, Md.	Young, Alaska
Flood	Price	

□ 1730

Mr. LAGOMARSINO and Mr. EDWARDS of Oklahoma changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1740

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my intention momentarily to move that the Committee rise in accordance with the announced procedure of rising at 5:30.

Pending that, I would like to yield to the gentleman from California (Mr. MINETA) for a colloquy.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding. I rise to express my strong support for H.R. 4034, the Export Administration Act Amendments of 1979. Congressman BINGHAM deserves praise from this body for his tremendous effort which has resulted in this excellent piece of legislation.

I represent a district which includes an area with the highest concentration of high technology electronics firms in the world. Many have dubbed the Santa Clara Valley in California, "Silicon Valley." In part, it is the high-technology products of the Silicon Valley which are unduly handicapped in the world market by the current export licensing process. H.R. 4034, as it now stands without amendment, represents a great stride to-

ward eliminating unnecessary bureaucratic delays of export licenses.

As a member of the House Select Committee on Intelligence, I am keenly aware of the importance of American technology to our strategic defense posture and foreign policy initiatives. Yet, I am also aware of our tendency to ignore the foreign availability of high-technology products, and to ignore the impact of unnecessary delay in export licensing on our competitiveness in the world market.

Problems with the current export licensing process are largely procedural. The merits of H.R. 4034 lie in the clearly specified statutory procedures which would vastly improve the efficiency and effectiveness of the export licensing process.

In my view, H.R. 4034 has several key features:

First. The availability of products from foreign sources would become a major factor in the licensing process, and thus rationalize and improve the effectiveness of the licensing process.

Second. The new "qualified general license" category, which would apply to some products now approved on a case-by-case basis, should contribute to reducing the caseload of the Department of Commerce, and thus reducing delays for other licenses.

Third. The statutorily mandated "suspense points" would require timely decisions to be made on difficult licenses, and provide a firm with full knowledge of where its license stands, and when, at the outset, a decision must be reached. Other provisions would open up the licensing process and vastly improve the accountability for licensing decisions.

Fourth. The "indexing system" would allow for the timely removal of dated technologies or products from license controls. This provision would eliminate needless paperwork for firms which must now obtain a license to sell a dated product or technology.

Fifth. The elimination of reexport controls on U.S. products resold by COCOM nations would reduce another source of unwieldy and unnecessary paperwork. This provision also would place pressure on the administration to reduce the U.S. unilateral list of controlled products. And, the administration is directed to concentrate on making COCOM work more effectively.

Sixth. The administration must assess the foreign availability of products and the domestic economic impact of the lost sales of those products which are to be controlled for foreign policy reasons. This provision should help prevent useless controls from needlessly harming domestic production.

Again, I wish to stress to my colleagues the importance to the national interest of not handicapping the high-technology industry of this country in the world market. H.R. 4034 represents an important stride toward preserving our national security interest and the interest of the domestic high-technology electronics industry.

Is it your intent that when a technical advisory committee certifies to the Secretary of Commerce that foreign availability does, in fact, exist, that the Secre-

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tary shall take such steps as may be necessary to verify such availability within some time frame?

Mr. BINGHAM. Yes. Certainly we expect the Secretary to focus attention on such a recommendation as quickly as possible and certainly within a reasonable time frame.

Mr. MINETA. Assuming that a technical advisory committee or company does certify to the Secretary of Commerce that foreign availability does exist, is it your intent that the Secretary advise the Congress of such an allegation—whether or not acted upon—in the annual report to the Congress required by section 14(6)?

Mr. BINGHAM. Yes.

Mr. MINETA. I thank the gentleman very much.

Mr. BINGHAM. I thank the gentleman for his contribution and for his kind remarks.

○ Mr. PRICE. Mr. Chairman, I rise in support of the amendment that was offered by the gentleman from Missouri, the chairman of the House Armed Services Research and Development Subcommittee.

First, I would like to commend Mr. ICHORD for his role in bringing to our attention the fact that the current system of export control is seriously deficient in insuring our national security objectives. H.R. 4034 goes a long way in improving upon the Export Control Act of 1969—it is a good bill, but it falls a little short in assuring that technology and goods that are vital to our national security are not prematurely transferred to our potential adversaries.

The amendment offered by the gentleman from Missouri simply requires the Secretary of Defense to develop a list of military critical technologies—the transfer of which would jeopardize our national security. This list of military critical technologies would then become part of the commodity control list and would be sufficiently specific to guide the determination of the Secretary of Commerce or any official exercising licensing responsibility over this act.

The need to define and control critical technology and goods dates back several years.

In 1976, a Defense Science Board was convened to address the matter of U.S. technology export. This panel, under the direction of Dr. Fred Bucy, president of Texas Instruments, concluded, and I quote:

While Defense does not have the primary responsibility for control of technology export, the task force believes the initiatives for developing policy objectives and strategies for controlling specific technologies are their responsibility.

On May 17, 1979, Mr. William Root, Director of East-West Trade, State Department, advised Mr. ICHORD's subcommittee that—

The Department of Defense is the best equipped place to evaluate the military significance of any particular technology.

Mr. Chairman, we have made a number of serious mistakes especially during the past 5 years in allowing some of our more critical technology and goods to be

transferred to the Soviet Union. Most recently, we transferred some very special oil drilling technology to the Soviets. While I would not oppose the sale of drill bits to the Soviet Union, I do strongly oppose the transfer of advanced manufacturing technology to them.

I want to make sure that we do not repeat our past mistakes. We must have a better export control system to serve our security objectives.

At this time the Soviets are most anxious to get U.S. computers and semiconductor technology. Their attempt to acquire our technology has been both legal and illegal.

No legislation, H.R. 4034 included, will provide 100 percent assurance against the transfer of U.S. technology to our potential adversaries. Effective legislation, however, will serve to lengthen the time it takes for them to acquire our technology and goods.

I believe that while H.R. 4034, the bill before us today, enhances the export-control process, it must be strengthened to preserve our national security. The amendment offered by Mr. ICHORD adds the necessary strength to this bill and I strongly agree with its adoption.○

○ Mr. DERWINSKI. Mr. Chairman, at a time of dollar inflation, a serious deficit in international trade, and the need to maintain our vital alliances abroad, the administration of U.S. export policy is a particularly important issue. It has long been a serious question and is even more so now.

The Export Administration Act (H.R. 4034) recognizes the importance of exports to the U.S. economy but maintains certain restrictions on those exports for reasons of national security, foreign policy, and short supply at home. It is essential that the administration have an instrument that provides flexibility in dealing with our trading partners; economic leverage to help redress the imbalances that adversely affect our exports.

Of particular interest to American exporters is the bill's provisions to improve export licensing procedures and reduce the oppressive bureaucratic restrictions that impede the flow of exports.

Also, a necessary and just decision has been made by the Congress in this bill in its recognition of the profound changes that have taken place in Uganda. There is hope from all quarters that the long, dark travail of Uganda's holocaust is at last at an end. The orgy of death and destruction inflicted on Uganda by Field Marshal Idi Amin is finally over. It is logical for us to help that unfortunate country restore itself.

Hopefully, much of this task can be accomplished through church organizations; Christian missionaries—those who were not butchered by that African despot, Amin—have been a traditionally strong element in Ugandan society, particularly in the area of education. Moreover, religious and charitable organizations, such as Catholic Relief Services, CARE, Protestant church groups, and many private voluntary organizations have long experience and excellent records for success in emergency humani-

tarian relief programs such as are now needed in Uganda.

This bill is an appropriate vehicle for lifting U.S. trade sanctions rightly imposed by Congress against the vicious totalitarian regime of Idi Amin. The legislative fight for those sanctions, incidentally, appropriate at the time, was led by our colleague, the gentleman from Ohio (Mr. PEASE) over the initial opposition of the administration, which "in principle" opposed trade sanctions in general, although it has fought long and hard—and successfully, thus far—to maintain U.S. sanctions against another African government, the newly elected regime of Bishop Abel Muzorewa in Zimbabwe.○

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEN) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirton, one of his secretaries.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 12, 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture may sit tomorrow, Wednesday, September 12, 1979, during consideration under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DELETION OF NAME FROM LIST OF COSPONSORS ON H.R. 5050

Mrs. FENWICK. Mr. Speaker, I was erroneously listed as a cosponsor on the bill H.R. 5050, and ask unanimous consent that my name be deleted from the list of cosponsors on that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REPORT ON PROJECTED DEFENSE DEPARTMENT SPENDING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-184)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, without objection, referred to the Committee of the Whole

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House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I am sure you agree with me that we cannot effectively safeguard U.S. legitimate interests abroad nor pursue safely peace, justice and order at home unless our national security is protected by adequate defenses. The fundamental responsibility of the President—a responsibility shared with Congress—is to maintain defenses adequate to provide for the national security of the United States. In meeting that responsibility, this Administration moved promptly and vigorously to reverse the downward trend in U.S. defense efforts. This is demonstrated by an examination of the trends in real defense expenditures since the mid 1960s. At NATO Summits in May 1977 and 1978 we persuaded our allies to join with us in endorsing a goal three percent real annual growth in defense outlays and an ambitious Long Term Defense Program for the Alliance. Together these represented a turning point, not only for the United States, but the whole Alliance.

For our part, we moved promptly to act on this resolve. We authorized production of XM-1 tanks; we greatly increased the number of anti-tank guided missiles; we deployed F-15s and additional F-111s to Europe, along with equipment for additional ground forces. We reduced the backlog of ships in overhaul and settled contractual disputes that threatened to halt shipbuilding progress. In strategic systems, we accelerated development and began procurement of long range air-launched cruise missiles, began the deployment of Trident I missiles, and have begun the modernization of our ICBM force with the commitment to deploy the MX missile in a survivable basing mode for it.

These and other initiatives were the building blocks for a determined program to assure that the United States remains militarily strong. The FY 1980 budget submission of last January was designed to continue that program. In subsequent months, however, inflation has run at higher levels than those assumed in the cost calculations associated with that defense program. Accordingly, I plan to send promptly to the Congress a defense budget amendment to restore enough funds to continue in FY 1980 to carry out the Administration's defense program based on our current best estimate of the inflation that will be experienced during the fiscal year. Although the detailed calculations needed to prepare an amendment are still in progress, I expect that the amount of the amendment will be about \$2.7 billion in Budget Authority above the Administration's January 1979 budget request.

Correcting for inflation is not enough in itself to assure that we continue an adequate defense program through FY 1980. We must also have the program and the funds authorized and appropriated, substantially as they were submitted. Therefore, in the course of Congressional consideration of the second budget resolution, I will support ceilings for the National Defense Function for FY 1980 of \$141.2 billion in Budget Authority and

\$130.6 billion in outlays. I will also request that the Congress support the Administration's FY 1980 defense program and, in particular, that the Appropriation Committees actually appropriate the funds needed to carry it out.

Furthermore, in FY 1981 I plan a further real increase in defense spending. The Defense Department is working on the details of that budget. It would, therefore, be premature to describe the features of that budget beyond noting that it will continue the broad thrust of our defense program, and that I intend to continue to support our mutual commitment with our NATO Allies.

While this defense program is adequate, it is clear that we could spend even more and thereby gain more military capability. But national security involves more than sheer military capability; there are other legitimate demands on our budget resources. These competing priorities will always be with us within the vast array of budget decisions both the Congress and the President are called upon to make. Defense outlays are actually lower in constant dollars than they were in 1963, and a much lower percentage of the gross national product (5% compared with 9%). There are those that think this has caused a decline in American military might and that the military balance has now tipped against us. I do not believe this to be so, but I am concerned about the trends. I believe that it is necessary for us to act now to reverse these trends.

The Secretary of Defense will be presenting to the Congress over the coming months the highlights of our defense program in terms of the goals we think we should achieve and the Five-Year Defense Program we plan to achieve them.

In this context he will point out, among many other items, how MX and our other strategic programs will contribute to the maintenance of essential equivalence between the central strategic forces of the United States and Soviet Union; how we plan to modernize theater nuclear forces in cooperation with our NATO allies, how our general purpose forces programs contribute both to our military capability to support our NATO allies and rapidly to deploy forces to defend our vital interests elsewhere.

That presentation can serve as the basis for future discussions (including open testimony) that will allow us to build the national consensus that is the fundamental prerequisite of a strong and secure America.

JIMMY CARTER.

The White House, September 11, 1979.

□ 1210

REPUBLICANS, RUSSIANS, AND CUBA

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, former President Ford has uttered remarks about the presence of Russian troops in Cuba that are calculated to gain political advantage. But those same remarks

ignore the realities of history, reveal a callous indifference toward the need for responsibility from a former president, and uselessly complicate the execution of U.S. policy.

The former President knows, or should know, of the secret deals made by Secretary Rogers and President Nixon in the latter part of 1970, when there was a sharp increase in the concentration of Russian troops on that island. There is nothing new about Russian troops there; the revelations of the past few days are not news at all. This entire episode is intended merely to embarrass a President who appears vulnerable.

Everyone knows, or should know, that Cuba is hardly an independent state. Cuba is and has for years been at the beck and call of its Russian masters. Cuba is financed by the Russians, it is organized by them, and its policies are evolved in clear response to the demands of Moscow. None of that is new. The so-called brigade is not new, either, nor does its presence make any difference in the servile condition of the Cuban Government. If that island had the independence of spirit of even the weakest canary, all it need do is ask the Russian troops to leave. Would they do so? It is a question that can be raised best with Havana. Why do they need the Russians? Do they really want them there?

For ourselves the questions to ask are what about the deals that have been made not by this but by previous administrations to accommodate the Russians in Cuba? For accommodation there has been, and it has been there at least since 1970.

If we have concerns, let us speak to them in truth and in good conscience. That is assuredly the least we should expect from a man like Mr. Ford.

As to Castro, my immediate concern is that the United States should discourage him from his projected plans to visit New York. Our Government should let him know that there are serious threats against him, and that there is no assurance that he could be protected while here. We cannot protect our own judges. Mr. Castro may have to be admitted to the environs of the United Nations, as would any other head of state, even one as servile as he. But our Government has an obligation to inform such visitors of any threat to their safety. Mr. Castro is threatened, and he should not come here, for there is no assurance that he could be protected.

FULL UTILIZATION OF NEW MELONES RESERVOIR

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SHUMWAY. Mr. Speaker, I stand before my colleagues today to apprise them of a situation within my congressional district.

There exists a dam on the Stanislaus River which was authorized in 1962 by the 87th Congress. The U.S. Army Corps of Engineers is nearing completion of the construction phase and the project's management will soon be turned over to